

**EHB 3159** - S AMD 392

By Senators Prentice, Rasmussen, Zarelli, Mulliken, Doumit,  
Schoesler

ADOPTED 03/07/2006

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
4 to read as follows:

5 (1) This chapter shall not apply to the value of products or the  
6 gross proceeds of sales derived from:

7 (a) Manufacturing dairy products; or

8 (b) Selling manufactured dairy products to purchasers who transport  
9 in the ordinary course of business the goods out of this state. A  
10 person taking an exemption under this subsection (1)(b) must keep and  
11 preserve records for the period required by RCW 82.32.070 establishing  
12 that the goods were transported by the purchaser in the ordinary course  
13 of business out of this state.

14 (2) "Dairy products" means dairy products that as of September 20,  
15 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,  
16 including byproducts from the manufacturing of the dairy products such  
17 as whey and casein.

18 (3) This section expires July 1, 2012.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
20 to read as follows:

21 (1) This chapter does not apply to the value of products or the  
22 gross proceeds of sales derived from:

23 (a) Manufacturing seafood products that remain in a raw, raw  
24 frozen, or raw salted state at the completion of the manufacturing by  
25 that person; or

26 (b) Selling manufactured seafood products that remain in a raw, raw  
27 frozen, or raw salted state to purchasers who transport in the ordinary  
28 course of business the goods out of this state. A person taking an  
29 exemption under this subsection (1)(b) must keep and preserve records

1 for the period required by RCW 82.32.070 establishing that the goods  
2 were transported by the purchaser in the ordinary course of business  
3 out of this state.

4 (2) This section expires July 1, 2012.

5 **Sec. 3.** RCW 82.04.4266 and 2005 c 513 s 1 are each amended to read  
6 as follows:

7 (1) This chapter shall not apply to ~~((amounts received from))~~ the  
8 value of products or the gross proceeds of sales derived from:

9 ~~((1))~~ (a) Manufacturing fruits or vegetables by canning,  
10 preserving, freezing, processing, or dehydrating fresh fruits ~~((and))~~  
11 or vegetables; or

12 ~~((2))~~ (b) Selling at wholesale ~~((fresh))~~ fruits ~~((and))~~ or  
13 vegetables ~~((canned, preserved, frozen, processed, or dehydrated))~~  
14 manufactured by the seller by canning, preserving, freezing,  
15 processing, or dehydrating fresh fruits or vegetables and sold to  
16 purchasers who transport in the ordinary course of business the goods  
17 out of this state. ~~((As proof of sale to a person who transports in~~  
18 ~~the ordinary course of business goods out of this state, the seller~~  
19 ~~shall annually provide a statement in a form prescribed by the~~  
20 ~~department and retain the statement as a business record.))~~ A person  
21 taking an exemption under this subsection (1)(b) must keep and preserve  
22 records for the period required by RCW 82.32.070 establishing that the  
23 goods were transported by the purchaser in the ordinary course of  
24 business out of this state.

25 (2) This section expires July 1, 2012.

26 **Sec. 4.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are  
27 each reenacted and amended to read as follows:

28 (1) Upon every person engaging within this state in the business of  
29 manufacturing:

30 (a) Wheat into flour, barley into pearl barley, soybeans into  
31 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
32 or sunflower seeds into sunflower oil; as to such persons the amount of  
33 tax with respect to such business shall be equal to the value of the  
34 flour, pearl barley, oil, canola meal, or canola byproduct  
35 manufactured, multiplied by the rate of 0.138 percent;

1 (b) Beginning July 1, 2012, seafood products which remain in a raw,  
2 raw frozen, or raw salted state at the completion of the manufacturing  
3 by that person; as to such persons the amount of tax with respect to  
4 such business shall be equal to the value of the products manufactured  
5 or the gross proceeds derived from such sales, multiplied by the rate  
6 of 0.138 percent;

7 (c) Beginning July 1, 2012, dairy products that as of September 20,  
8 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,  
9 including byproducts from the manufacturing of the dairy products such  
10 as whey and casein; or selling the same to purchasers who transport in  
11 the ordinary course of business the goods out of state; as to such  
12 persons the tax imposed shall be equal to the value of the products  
13 manufactured or the gross proceeds derived from such sales multiplied  
14 by the rate of 0.138 percent. ((As proof of sale to a person who  
15 transports in the ordinary course of business goods out of this state,  
16 the seller shall annually provide a statement in a form prescribed by  
17 the department and retain the statement as a business record)) Sellers  
18 must keep and preserve records for the period required by RCW 82.32.070  
19 establishing that the goods were transported by the purchaser in the  
20 ordinary course of business out of this state;

21 (d) Beginning July 1, 2012, fruits or vegetables by canning,  
22 preserving, freezing, processing, or dehydrating fresh fruits or  
23 vegetables, or selling at wholesale fruits or vegetables manufactured  
24 by the seller by canning, preserving, freezing, processing, or  
25 dehydrating fresh fruits or vegetables and sold to purchasers who  
26 transport in the ordinary course of business the goods out of this  
27 state; as to such persons the amount of tax with respect to such  
28 business shall be equal to the value of the products manufactured or  
29 the gross proceeds derived from such sales multiplied by the rate of  
30 0.138 percent. Sellers must keep and preserve records for the period  
31 required by RCW 82.32.070 establishing that the goods were transported  
32 by the purchaser in the ordinary course of business out of this state;

33 ((+d)) (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or  
34 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as  
35 to such persons the amount of tax with respect to the business shall be  
36 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel  
37 feedstock manufactured, multiplied by the rate of 0.138 percent; and

1       (~~(e)~~) (f) Alcohol fuel or wood biomass fuel, as those terms are  
2 defined in RCW 82.29A.135; as to such persons the amount of tax with  
3 respect to the business shall be equal to the value of alcohol fuel or  
4 wood biomass fuel manufactured, multiplied by the rate of 0.138  
5 percent.

6       (2) Upon every person engaging within this state in the business of  
7 splitting or processing dried peas; as to such persons the amount of  
8 tax with respect to such business shall be equal to the value of the  
9 peas split or processed, multiplied by the rate of 0.138 percent.

10       (3) Upon every nonprofit corporation and nonprofit association  
11 engaging within this state in research and development, as to such  
12 corporations and associations, the amount of tax with respect to such  
13 activities shall be equal to the gross income derived from such  
14 activities multiplied by the rate of 0.484 percent.

15       (4) Upon every person engaging within this state in the business of  
16 slaughtering, breaking and/or processing perishable meat products  
17 and/or selling the same at wholesale only and not at retail; as to such  
18 persons the tax imposed shall be equal to the gross proceeds derived  
19 from such sales multiplied by the rate of 0.138 percent.

20       (5) Upon every person engaging within this state in the business of  
21 acting as a travel agent or tour operator; as to such persons the  
22 amount of the tax with respect to such activities shall be equal to the  
23 gross income derived from such activities multiplied by the rate of  
24 0.275 percent.

25       (6) Upon every person engaging within this state in business as an  
26 international steamship agent, international customs house broker,  
27 international freight forwarder, vessel and/or cargo charter broker in  
28 foreign commerce, and/or international air cargo agent; as to such  
29 persons the amount of the tax with respect to only international  
30 activities shall be equal to the gross income derived from such  
31 activities multiplied by the rate of 0.275 percent.

32       (7) Upon every person engaging within this state in the business of  
33 stevedoring and associated activities pertinent to the movement of  
34 goods and commodities in waterborne interstate or foreign commerce; as  
35 to such persons the amount of tax with respect to such business shall  
36 be equal to the gross proceeds derived from such activities multiplied  
37 by the rate of 0.275 percent. Persons subject to taxation under this  
38 subsection shall be exempt from payment of taxes imposed by chapter

1 82.16 RCW for that portion of their business subject to taxation under  
2 this subsection. Stevedoring and associated activities pertinent to  
3 the conduct of goods and commodities in waterborne interstate or  
4 foreign commerce are defined as all activities of a labor, service or  
5 transportation nature whereby cargo may be loaded or unloaded to or  
6 from vessels or barges, passing over, onto or under a wharf, pier, or  
7 similar structure; cargo may be moved to a warehouse or similar holding  
8 or storage yard or area to await further movement in import or export  
9 or may move to a consolidation freight station and be stuffed,  
10 unstuffed, containerized, separated or otherwise segregated or  
11 aggregated for delivery or loaded on any mode of transportation for  
12 delivery to its consignee. Specific activities included in this  
13 definition are: Wharfage, handling, loading, unloading, moving of  
14 cargo to a convenient place of delivery to the consignee or a  
15 convenient place for further movement to export mode; documentation  
16 services in connection with the receipt, delivery, checking, care,  
17 custody and control of cargo required in the transfer of cargo;  
18 imported automobile handling prior to delivery to consignee; terminal  
19 stevedoring and incidental vessel services, including but not limited  
20 to plugging and unplugging refrigerator service to containers,  
21 trailers, and other refrigerated cargo receptacles, and securing ship  
22 hatch covers.

23 (8) Upon every person engaging within this state in the business of  
24 disposing of low-level waste, as defined in RCW 43.145.010; as to such  
25 persons the amount of the tax with respect to such business shall be  
26 equal to the gross income of the business, excluding any fees imposed  
27 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

28 If the gross income of the taxpayer is attributable to activities  
29 both within and without this state, the gross income attributable to  
30 this state shall be determined in accordance with the methods of  
31 apportionment required under RCW 82.04.460.

32 (9) Upon every person engaging within this state as an insurance  
33 agent, insurance broker, or insurance solicitor licensed under chapter  
34 48.17 RCW; as to such persons, the amount of the tax with respect to  
35 such licensed activities shall be equal to the gross income of such  
36 business multiplied by the rate of 0.484 percent.

37 (10) Upon every person engaging within this state in business as a  
38 hospital, as defined in chapter 70.41 RCW, that is operated as a

1 nonprofit corporation or by the state or any of its political  
2 subdivisions, as to such persons, the amount of tax with respect to  
3 such activities shall be equal to the gross income of the business  
4 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
5 percent thereafter. The moneys collected under this subsection shall  
6 be deposited in the health services account created under RCW  
7 43.72.900.

8 (11)(a) Beginning October 1, 2005, upon every person engaging  
9 within this state in the business of manufacturing commercial  
10 airplanes, or components of such airplanes, as to such persons the  
11 amount of tax with respect to such business shall, in the case of  
12 manufacturers, be equal to the value of the product manufactured, or in  
13 the case of processors for hire, be equal to the gross income of the  
14 business, multiplied by the rate of:

15 (i) 0.4235 percent from October 1, 2005, through the later of June  
16 30, 2007, or the day preceding the date final assembly of a  
17 superefficient airplane begins in Washington state, as determined under  
18 RCW 82.32.550; and

19 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
20 date final assembly of a superefficient airplane begins in Washington  
21 state, as determined under RCW 82.32.550.

22 (b) Beginning October 1, 2005, upon every person engaging within  
23 this state in the business of making sales, at retail or wholesale, of  
24 commercial airplanes, or components of such airplanes, manufactured by  
25 that person, as to such persons the amount of tax with respect to such  
26 business shall be equal to the gross proceeds of sales of the airplanes  
27 or components multiplied by the rate of:

28 (i) 0.4235 percent from October 1, 2005, through the later of June  
29 30, 2007, or the day preceding the date final assembly of a  
30 superefficient airplane begins in Washington state, as determined under  
31 RCW 82.32.550; and

32 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
33 date final assembly of a superefficient airplane begins in Washington  
34 state, as determined under RCW 82.32.550.

35 (c) For the purposes of this subsection (11), "commercial  
36 airplane," "component," and "final assembly of a superefficient  
37 airplane" have the meanings given in RCW 82.32.550.

1 (d) In addition to all other requirements under this title, a  
2 person eligible for the tax rate under this subsection (11) must report  
3 as required under RCW 82.32.545.

4 (e) This subsection (11) does not apply after the earlier of: July  
5 1, 2024; or December 31, 2007, if assembly of a superefficient airplane  
6 does not begin by December 31, 2007, as determined under RCW 82.32.550.

7 (12) Upon every person engaging within this state in inspecting,  
8 testing, labeling, and storing canned salmon owned by another person,  
9 as to such persons, the amount of tax with respect to such activities  
10 shall be equal to the gross income derived from such activities  
11 multiplied by the rate of 0.484 percent.

12 **Sec. 5.** RCW 82.32.610 and 2005 c 513 s 3 are each amended to read  
13 as follows:

14 (1) The legislature finds that accountability and effectiveness are  
15 important aspects of setting tax policy. In order to make policy  
16 choices regarding the best use of limited state resources the  
17 legislature needs information on how a tax incentive is used.

18 (2) Each person claiming a tax exemption under RCW 82.04.4266,  
19 section 1 of this act, or section 2 of this act shall report  
20 information to the department by filing a complete annual survey. The  
21 survey is due by March 31st of the year following any calendar year in  
22 which a tax exemption under RCW 82.04.4266, section 1 of this act, or  
23 section 2 of this act is taken. The department may extend the due date  
24 for timely filing of annual surveys under this section as provided in  
25 RCW 82.32.590. The survey shall include the amount of tax exemption  
26 taken. The survey shall also include the following information for  
27 employment positions in Washington:

28 (a) The number of total employment positions;

29 (b) Full-time, part-time, and temporary employment positions as a  
30 percent of total employment;

31 (c) The number of employment positions according to the following  
32 wage bands: Less than thirty thousand dollars; thirty thousand dollars  
33 or greater, but less than sixty thousand dollars; and sixty thousand  
34 dollars or greater. A wage band containing fewer than three  
35 individuals may be combined with another wage band; and

36 (d) The number of employment positions that have employer-provided  
37 medical, dental, and retirement benefits, by each of the wage bands.

1 The first survey filed under this subsection shall also include  
2 information for the twelve-month period immediately before first use of  
3 a tax incentive.

4 (3) The department may request additional information necessary to  
5 measure the results of the exemption program, to be submitted at the  
6 same time as the survey.

7 (4) All information collected under this section, except the amount  
8 of the tax exemption taken, is deemed taxpayer information under RCW  
9 82.32.330. Information on the amount of tax exemption taken is not  
10 subject to the confidentiality provisions of RCW 82.32.330.

11 (5) If a person fails to submit an annual survey under subsection  
12 (2) of this section by the due date of the (~~report~~) survey or any  
13 extension under RCW 82.32.590, the department shall declare the amount  
14 of taxes exempted for the previous calendar year to be immediately due  
15 and payable. The department shall assess interest, but not penalties,  
16 on the amounts due under this section. The amount due shall be  
17 calculated using a rate of 0.138 percent. The interest shall be  
18 assessed at the rate provided for delinquent taxes under this chapter,  
19 retroactively to the date the exemption was claimed, and shall accrue  
20 until the taxes for which the exemption was claimed are repaid. This  
21 information is not subject to the confidentiality provisions of RCW  
22 82.32.330.

23 (6) The department shall use the information from this section to  
24 prepare summary descriptive statistics by category. No fewer than  
25 three taxpayers shall be included in any category. The department  
26 shall report these statistics to the legislature each year by September  
27 1st.

28 (7) The department shall study the tax exemption authorized in RCW  
29 82.04.4266, section 1 of this act, and section 2 of this act. The  
30 department shall submit a report to the finance committee of the house  
31 of representatives and the ways and means committee of the senate by  
32 December 1, 2011. The report shall measure the effect of the exemption  
33 on job creation, job retention, company growth, the movement of firms  
34 or the consolidation of firms' operations into the state, and such  
35 other factors as the department selects.

36 **Sec. 6.** RCW 82.74.010 and 2005 c 513 s 4 are each amended to read  
37 as follows:



1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

3 (1) "Applicant" means a person applying for a tax deferral under  
4 this chapter.

5 (2) "Cold storage warehouse" means a storage warehouse (~~used~~)  
6 owned or operated by a wholesaler or third-party warehouser as those  
7 terms are defined in RCW 82.08.820 to store fresh and/or frozen  
8 perishable fruits or vegetables, dairy products, seafood products, or  
9 any combination thereof, at a desired temperature to maintain the  
10 quality of the product for orderly marketing.

11 (3) "Dairy product" means dairy products that as of September 20,  
12 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,  
13 including byproducts from the manufacturing of the dairy products such  
14 as whey and casein.

15 (4) "Dairy product manufacturing" means manufacturing, as defined  
16 in RCW 82.04.120, of dairy products.

17 (5) "Department" means the department of revenue.

18 (~~(4)~~) (6) "Eligible investment project" means an investment in  
19 qualified buildings or qualified machinery and equipment, including  
20 labor and services rendered in the planning, installation, and  
21 construction of the project. The lessor or owner of a qualified  
22 building is not eligible for a deferral unless (a) the underlying  
23 ownership of the buildings, machinery, and equipment vests exclusively  
24 in the same person; or (b)(i) the lessor by written contract agrees to  
25 pass the economic benefit of the deferral to the lessee in the form of  
26 reduced rent payments, and (ii) the lessee that receives the economic  
27 benefit of the deferral agrees in writing with the department to  
28 complete the annual survey under RCW 82.74.040. The economic benefit  
29 of the deferral to the lessee may be evidenced by any type of payment,  
30 credit, or any other financial arrangement between the lessor or owner  
31 of the qualified building and the lessee.

32 (~~(5)~~) (7) "Fresh fruit and vegetable processing" means  
33 manufacturing as defined in RCW 82.04.120 which consists of the  
34 canning, preserving, freezing, processing, or dehydrating fresh fruits  
35 and/or vegetables.

36 (~~(6)~~) (8)(a) "Initiation of construction" means the date that a  
37 building permit is issued under the building code adopted under RCW  
38 19.27.031 for:

1 (i) Construction of the qualified building, if the underlying  
2 ownership of the building vests exclusively with the person receiving  
3 the economic benefit of the deferral;

4 (ii) Construction of the qualified building, if the economic  
5 benefits of the deferral are passed to a lessee as provided in  
6 subsection ~~((4))~~ (6) of this section; or

7 (iii) Tenant improvements for a qualified building, if the economic  
8 benefits of the deferral are passed to a lessee as provided in  
9 subsection ~~((4))~~ (6) of this section.

10 (b) "Initiation of construction" does not include soil testing,  
11 site clearing and grading, site preparation, or any other related  
12 activities that are initiated before the issuance of a building permit  
13 for the construction of the foundation of the building.

14 (c) If the investment project is a phased project, "initiation of  
15 construction" applies separately to each phase.

16 ~~((7))~~ (9) "Person" has the meaning given in RCW 82.04.030.

17 ~~((8))~~ (10) "Qualified buildings" means construction of new  
18 structures, and expansion or renovation of existing structures for the  
19 purpose of increasing floor space or production capacity used for fresh  
20 fruit and vegetable processing, dairy product manufacturing, seafood  
21 product manufacturing, cold storage ~~((warehouse))~~ warehousing, and  
22 research and development activities, including plant offices and  
23 warehouses or other facilities for the storage of raw material or  
24 finished goods if such facilities are an essential or an integral part  
25 of a factory, plant, or laboratory used for fresh fruit and vegetable  
26 processing, dairy product manufacturing, seafood product manufacturing,  
27 cold storage warehousing, or research and development. If a building  
28 is used partly for fresh fruit and vegetable processing, dairy product  
29 manufacturing, seafood product manufacturing, cold storage warehousing,  
30 or research and development and partly for other purposes, the  
31 applicable tax deferral shall be determined by apportionment of the  
32 costs of construction under rules adopted by the department.

33 ~~((9))~~ (11) "Qualified machinery and equipment" means all  
34 industrial and research fixtures, equipment, and support facilities  
35 that are an integral and necessary part of a fresh fruit and vegetable  
36 processing, dairy product manufacturing, seafood product manufacturing,  
37 cold storage warehouse, or research and development operation.  
38 "Qualified machinery and equipment" includes: Computers; software;

1 data processing equipment; laboratory equipment; manufacturing  
2 components such as belts, pulleys, shafts, and moving parts; molds,  
3 tools, and dies; operating structures; and all equipment used to  
4 control or operate the machinery.

5 ~~((10))~~ (12) "Recipient" means a person receiving a tax deferral  
6 under this chapter.

7 ~~((11))~~ (13) "Research and development" means the development,  
8 refinement, testing, marketing, and commercialization of a product,  
9 service, or process related to fresh fruit and vegetable processing,  
10 dairy product manufacturing, seafood product manufacturing, or cold  
11 storage warehousing before commercial sales have begun. As used in  
12 this subsection, "commercial sales" excludes sales of prototypes or  
13 sales for market testing if the total gross receipts from such sales of  
14 the product, service, or process do not exceed one million dollars.

15 (14) "Seafood product" means any edible marine fish and shellfish  
16 that remains in a raw, raw frozen, or raw salted state.

17 (15) "Seafood product manufacturing" means the manufacturing, as  
18 defined in RCW 82.04.120, of seafood products.

19 **Sec. 7.** RCW 82.74.030 and 2005 c 513 s 6 are each amended to read  
20 as follows:

21 (1) The department shall issue a sales and use tax deferral  
22 certificate for state and local sales and use taxes ~~((due))~~ imposed or  
23 authorized under chapters 82.08, 82.12, and 82.14 RCW on each eligible  
24 investment project if the investment project is undertaken for the  
25 purpose of fresh fruit and vegetable processing, dairy product  
26 manufacturing, seafood product manufacturing, cold storage warehousing,  
27 or research and development.

28 (2) This section expires July 1, 2012.

29 **Sec. 8.** RCW 82.74.040 and 2005 c 513 s 7 are each amended to read  
30 as follows:

31 (1)(a) The legislature finds that accountability and effectiveness  
32 are important aspects of setting tax policy. In order to make policy  
33 choices regarding the best use of limited state resources the  
34 legislature needs information on how a tax incentive is used.

35 (b) Each recipient of a deferral granted under this chapter shall  
36 complete an annual survey. If the economic benefits of the deferral

1 are passed to a lessee as provided in RCW 82.74.010(~~((4))~~) (6), the  
2 lessee shall complete the annual survey and the applicant is not  
3 required to complete the annual survey. The survey is due by March  
4 31st of the year following the calendar year in which the investment  
5 project is certified by the department as having been operationally  
6 complete and each of the seven succeeding calendar years. The  
7 department may extend the due date for timely filing of annual surveys  
8 under this section as provided in RCW 82.32.590. The survey shall  
9 include the amount of tax deferred. The survey shall also include the  
10 following information for employment positions in Washington:

11 (i) The number of total employment positions;

12 (ii) Full-time, part-time, and temporary employment positions as a  
13 percent of total employment;

14 (iii) The number of employment positions according to the following  
15 wage bands: Less than thirty thousand dollars; thirty thousand dollars  
16 or greater, but less than sixty thousand dollars; and sixty thousand  
17 dollars or greater. A wage band containing fewer than three  
18 individuals may be combined with another wage band; and

19 (iv) The number of employment positions that have employer-provided  
20 medical, dental, and retirement benefits, by each of the wage bands.

21 (c) The department may request additional information necessary to  
22 measure the results of the deferral program, to be submitted at the  
23 same time as the survey.

24 (d) All information collected under this subsection, except the  
25 amount of the tax deferral taken, is deemed taxpayer information under  
26 RCW 82.32.330. Information on the amount of tax deferral taken is not  
27 subject to the confidentiality provisions of RCW 82.32.330 and may be  
28 disclosed to the public upon request.

29 (e) The department shall use the information from this section to  
30 prepare summary descriptive statistics by category. No fewer than  
31 three taxpayers shall be included in any category. The department  
32 shall report these statistics to the legislature each year by September  
33 1st.

34 (f) The department shall also use the information to study the tax  
35 deferral program authorized under this chapter. The department shall  
36 report to the legislature by December 1, 2011. The report shall  
37 measure the effect of the program on job creation, (~~(the number of jobs~~  
38 ~~created for residents of eligible areas,~~) company growth, the

1 introduction of new products, the diversification of the state's  
2 economy, growth in research and development investment, the movement of  
3 firms or the consolidation of firms' operations into the state, and  
4 such other factors as the department selects.

5 (2)(a) If a recipient of the deferral fails to complete the annual  
6 survey required under subsection (1) of this section by the date due or  
7 any extension under RCW 82.32.590, twelve and one-half percent of the  
8 deferred tax shall be immediately due. If the economic benefits of the  
9 deferral are passed to a lessee as provided in RCW 82.74.010(~~(+4)~~)  
10 (6), the lessee shall be responsible for payment to the extent the  
11 lessee has received the economic benefit. The department shall assess  
12 interest, but not penalties, on the amounts due under this section.  
13 The interest shall be assessed at the rate provided for delinquent  
14 taxes under chapter 82.32 RCW, and shall accrue until the amounts due  
15 are repaid.

16 (b) A recipient who must repay deferred taxes under RCW  
17 82.74.050(2) because the department has found that an investment  
18 project is used for purposes other than fresh fruit and vegetable  
19 processing, dairy product manufacturing, seafood product manufacturing,  
20 cold storage warehousing, or research and development is no longer  
21 required to file annual surveys under this section beginning on the  
22 date an investment project is used for nonqualifying purposes.

23 **Sec. 9.** RCW 82.74.050 and 2005 c 513 s 8 are each amended to read  
24 as follows:

25 (1) Except as provided in subsection (2) of this section, taxes  
26 deferred under this chapter need not be repaid.

27 (2) If, on the basis of survey under RCW 82.74.040 or other  
28 information, the department finds that an investment project is used  
29 for purposes other than fresh fruit and vegetable processing, dairy  
30 product manufacturing, seafood product manufacturing, cold storage  
31 warehousing, or research and development at any time during the  
32 calendar year in which the investment project is certified by the  
33 department as having been operationally completed, or at any time  
34 during any of the seven succeeding calendar years, a portion of  
35 deferred taxes shall be immediately due according to the following  
36 schedule:

1	Year in which <u>nonqualifying</u> use occurs	% of deferred taxes due
2	1	100%
3	2	87.5%
4	3	75%
5	4	62.5%
6	5	50%
7	6	37.5%
8	7	25%
9	8	12.5%

10 (3) The department shall assess interest, but not penalties, on the  
11 deferred taxes under subsection (2) of this section. The interest  
12 shall be assessed at the rate provided for delinquent taxes under  
13 chapter 82.32 RCW, retroactively to the date of deferral, and shall  
14 accrue until the deferred taxes are repaid. The debt for deferred  
15 taxes will not be extinguished by insolvency or other failure of the  
16 recipient. Transfer of ownership does not terminate the deferral. The  
17 deferral is transferred, subject to the successor meeting the  
18 eligibility requirements of this chapter, for the remaining periods of  
19 the deferral.

20 (4) Notwithstanding subsection (2) of this section, deferred taxes  
21 on the following need not be repaid:

22 (a) Machinery and equipment, and sales of or charges made for labor  
23 and services, which at the time of purchase would have qualified for  
24 exemption under RCW 82.08.02565; and

25 (b) Machinery and equipment which at the time of first use would  
26 have qualified for exemption under RCW 82.12.02565.

27 **Sec. 10.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read  
28 as follows:

29 (1) Wholesalers or third-party warehouseers who own or operate  
30 warehouses or grain elevators and retailers who own or operate  
31 distribution centers, and who have paid the tax levied by RCW 82.08.020  
32 on:

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

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

6 (2) 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 be measured in calculating the square footage,  
18 including space that juts out from the building profile such as loading  
19 docks. "Square footage" does not mean the aggregate of the square  
20 footage of more than one warehouse at a location or the aggregate of  
21 the square footage of warehouses at more than one location;

22 (k) "Third-party warehouser" means a person taxable under RCW  
23 82.04.280(4);

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

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



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

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

30           (4) Warehouses, grain elevators, and material-handling equipment  
31 and racking equipment for which an exemption, credit, or deferral has  
32 been or is being received under chapter 82.60, (~~(82.617)~~) 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) The lessor or owner of a warehouse or grain elevator is not  
38 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. 11.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to  
7 read as follows:

8 (1) Wholesalers or third-party warehouseers 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) of this section and  
19 is based on the state share of sales tax.

20 (2) For purposes of this section and RCW 82.12.820:

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

22 (b) "Cold storage warehouse" (~~means a storage warehouse used to~~  
23 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~  
24 ~~combination thereof, at a desired temperature to maintain the quality~~  
25 ~~of the product for orderly marketing~~)) has the meaning provided in RCW  
26 82.74.010;

27 (c) "Construction" means the actual construction of a warehouse or  
28 grain elevator that did not exist before the construction began.  
29 "Construction" includes expansion if the expansion adds at least  
30 twenty-five thousand square feet of additional space to an existing  
31 cold storage warehouse, at least two hundred thousand square feet of  
32 additional space to an existing warehouse other than a cold storage  
33 warehouse, or additional storage capacity of at least one million  
34 bushels to an existing grain elevator. "Construction" does not include  
35 renovation, remodeling, or repair;

36 (d) "Department" means the department of revenue;

1 (e) "Distribution center" means a warehouse that is used  
2 exclusively by a retailer solely for the storage and distribution of  
3 finished goods to retail outlets of the retailer. "Distribution  
4 center" does not include a warehouse at which retail sales occur;

5 (f) "Finished goods" means tangible personal property intended for  
6 sale by a retailer or wholesaler. "Finished goods" does not include  
7 agricultural products stored by wholesalers, third-party warehouses, or  
8 retailers if the storage takes place on the land of the person who  
9 produced the agricultural product. "Finished goods" does not include  
10 logs, minerals, petroleum, gas, or other extracted products stored as  
11 raw materials or in bulk;

12 (g) "Grain elevator" means a structure used for storage and  
13 handling of grain in bulk;

14 (h) "Material-handling equipment and racking equipment" means  
15 equipment in a warehouse or grain elevator that is primarily used to  
16 handle, store, organize, convey, package, or repackage finished goods.  
17 The term includes tangible personal property with a useful life of one  
18 year or more that becomes an ingredient or component of the equipment,  
19 including repair and replacement parts. The term does not include  
20 equipment in offices, lunchrooms, restrooms, and other like space,  
21 within a warehouse or grain elevator, or equipment used for  
22 nonwarehousing purposes. "Material-handling equipment" includes but is  
23 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
24 place units, cranes, hoists, mechanical arms, and robots; mechanized  
25 systems, including containers that are an integral part of the system,  
26 whose purpose is to lift or move tangible personal property; and  
27 automated handling, storage, and retrieval systems, including computers  
28 that control them, whose purpose is to lift or move tangible personal  
29 property; and forklifts and other off-the-road vehicles that are used  
30 to lift or move tangible personal property and that cannot be operated  
31 legally on roads and streets. "Racking equipment" includes, but is not  
32 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
33 pallets, and other containers and storage devices that form a necessary  
34 part of the storage system;

35 (i) "Person" has the meaning given in RCW 82.04.030;

36 (j) "Retailer" means a person who makes "sales at retail" as  
37 defined in chapter 82.04 RCW of tangible personal property;

1 (k) "Square footage" means the product of the two horizontal  
2 dimensions of each floor of a specific warehouse. The entire footprint  
3 of the warehouse shall be measured in calculating the square footage,  
4 including space that juts out from the building profile such as loading  
5 docks. "Square footage" does not mean the aggregate of the square  
6 footage of more than one warehouse at a location or the aggregate of  
7 the square footage of warehouses at more than one location;

8 (l) "Third-party warehouser" means a person taxable under RCW  
9 82.04.280(4);

10 (m) "Warehouse" means an enclosed building or structure in which  
11 finished goods are stored. A warehouse building or structure may have  
12 more than one storage room and more than one floor. Office space,  
13 lunchrooms, restrooms, and other space within the warehouse and  
14 necessary for the operation of the warehouse are considered part of the  
15 warehouse as are loading docks and other such space attached to the  
16 building and used for handling of finished goods. Landscaping and  
17 parking lots are not considered part of the warehouse. A storage yard  
18 is not a warehouse, nor is a building in which manufacturing takes  
19 place; and

20 (n) "Wholesaler" means a person who makes "sales at wholesale" as  
21 defined in chapter 82.04 RCW of tangible personal property, but  
22 "wholesaler" does not include a person who makes sales exempt under RCW  
23 82.04.330.

24 (3)(a) A person claiming an exemption from state tax in the form of  
25 a remittance under this section must pay the tax imposed by RCW  
26 82.08.020. The buyer may then apply to the department for remittance  
27 of all or part of the tax paid under RCW 82.08.020. For grain  
28 elevators with bushel capacity of one million but less than two  
29 million, the remittance is equal to fifty percent of the amount of tax  
30 paid. For warehouses with square footage of two hundred thousand or  
31 more, other than cold storage warehouses, and for grain elevators with  
32 bushel capacity of two million or more, the remittance is equal to one  
33 hundred percent of the amount of tax paid for qualifying construction,  
34 materials, service, and labor, and fifty percent of the amount of tax  
35 paid for qualifying material-handling equipment and racking equipment,  
36 and labor and services rendered in respect to installing, repairing,  
37 cleaning, altering, or improving the equipment. For cold storage  
38 warehouses with square footage of twenty-five thousand or more, the

1 remittance is equal to one hundred percent of the amount of tax paid  
2 for qualifying construction, materials, service, and labor, and one  
3 hundred percent of the amount of tax paid for qualifying material-  
4 handling equipment and racking equipment, and labor and services  
5 rendered in respect to installing, repairing, cleaning, altering, or  
6 improving the equipment.

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

19 (c) The department shall on a quarterly basis remit exempted  
20 amounts to qualifying persons who submitted applications during the  
21 previous quarter.

22 (4) Warehouses, grain elevators, and material-handling equipment  
23 and racking equipment for which an exemption, credit, or deferral has  
24 been or is being received under chapter 82.60, (~~(82.617)~~) 82.62, or  
25 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
26 remittance under this section. Warehouses and grain elevators upon  
27 which construction was initiated before May 20, 1997, are not eligible  
28 for a remittance under this section.

29 (5) The lessor or owner of a warehouse or grain elevator is not  
30 eligible for a remittance under this section unless the underlying  
31 ownership of the warehouse or grain elevator and the material-handling  
32 equipment and racking equipment vests exclusively in the same person,  
33 or unless the lessor by written contract agrees to pass the economic  
34 benefit of the remittance to the lessee in the form of reduced rent  
35 payments.

36 **Sec. 12.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to  
37 read as follows:

1 (1) Wholesalers or third-party warehouse owners who own or operate  
2 warehouses or grain elevators and retailers who own or operate  
3 distribution centers, and who have paid the tax levied by RCW 82.08.020  
4 on:

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

8 (b) Construction of a warehouse or grain elevator, including  
9 materials, and including service and labor costs,  
10 are eligible for an exemption in the form of a remittance. The amount  
11 of the remittance is computed under subsection (3) of this section and  
12 is based on the state share of sales tax.

13 (2) For purposes of this section and RCW 82.12.820:

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

15 (b) (~~"Cold storage warehouse" means a storage warehouse used to~~  
16 ~~store fresh and/or frozen perishable fruits or vegetables, or any~~  
17 ~~combination thereof, at a desired temperature to maintain the quality~~  
18 ~~of the product for orderly marketing;~~

19 ~~(c)~~) "Construction" means the actual construction of a warehouse  
20 or grain elevator that did not exist before the construction began.  
21 "Construction" includes expansion if the expansion adds (~~at least~~  
22 ~~twenty five thousand square feet of additional space to an existing~~  
23 ~~cold storage warehouse,~~) at least two hundred thousand square feet of  
24 additional space to an existing warehouse (~~other than a cold storage~~  
25 ~~warehouse,~~) or additional storage capacity of at least one million  
26 bushels to an existing grain elevator. "Construction" does not include  
27 renovation, remodeling, or repair;

28 (~~(d)~~) (c) "Department" means the department of revenue;

29 (~~(e)~~) (d) "Distribution center" means a warehouse that is used  
30 exclusively by a retailer solely for the storage and distribution of  
31 finished goods to retail outlets of the retailer. "Distribution  
32 center" does not include a warehouse at which retail sales occur;

33 (~~(f)~~) (e) "Finished goods" means tangible personal property  
34 intended for sale by a retailer or wholesaler. "Finished goods" does  
35 not include agricultural products stored by wholesalers, third-party  
36 warehouses, or retailers if the storage takes place on the land of the  
37 person who produced the agricultural product. "Finished goods" does

1 not include logs, minerals, petroleum, gas, or other extracted products  
2 stored as raw materials or in bulk;

3 ~~((g))~~ (f) "Grain elevator" means a structure used for storage and  
4 handling of grain in bulk;

5 ~~((h))~~ (g) "Material-handling equipment and racking equipment"  
6 means equipment in a warehouse or grain elevator that is primarily used  
7 to handle, store, organize, convey, package, or repackage finished  
8 goods. The term includes tangible personal property with a useful life  
9 of one year or more that becomes an ingredient or component of the  
10 equipment, including repair and replacement parts. The term does not  
11 include equipment in offices, lunchrooms, restrooms, and other like  
12 space, within a warehouse or grain elevator, or equipment used for  
13 nonwarehousing purposes. "Material-handling equipment" includes but is  
14 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
15 place units, cranes, hoists, mechanical arms, and robots; mechanized  
16 systems, including containers that are an integral part of the system,  
17 whose purpose is to lift or move tangible personal property; and  
18 automated handling, storage, and retrieval systems, including computers  
19 that control them, whose purpose is to lift or move tangible personal  
20 property; and forklifts and other off-the-road vehicles that are used  
21 to lift or move tangible personal property and that cannot be operated  
22 legally on roads and streets. "Racking equipment" includes, but is not  
23 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
24 pallets, and other containers and storage devices that form a necessary  
25 part of the storage system;

26 ~~((i))~~ (h) "Person" has the meaning given in RCW 82.04.030;

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

29 ~~((k))~~ (j) "Square footage" means the product of the two  
30 horizontal dimensions of each floor of a specific warehouse. The  
31 entire footprint of the warehouse shall be measured in calculating the  
32 square footage, including space that juts out from the building profile  
33 such as loading docks. "Square footage" does not mean the aggregate of  
34 the square footage of more than one warehouse at a location or the  
35 aggregate of the square footage of warehouses at more than one  
36 location;

37 ~~((l))~~ (k) "Third-party warehouse" means a person taxable under  
38 RCW 82.04.280(4);

1        ~~((n))~~ (1) "Warehouse" means an enclosed building or structure in  
2 which finished goods are stored. A warehouse building or structure may  
3 have more than one storage room and more than one floor. Office space,  
4 lunchrooms, restrooms, and other space within the warehouse and  
5 necessary for the operation of the warehouse are considered part of the  
6 warehouse as are loading docks and other such space attached to the  
7 building and used for handling of finished goods. Landscaping and  
8 parking lots are not considered part of the warehouse. A storage yard  
9 is not a warehouse, nor is a building in which manufacturing takes  
10 place; and

11        ~~((n))~~ (m) "Wholesaler" means a person who makes "sales at  
12 wholesale" as defined in chapter 82.04 RCW of tangible personal  
13 property, but "wholesaler" does not include a person who makes sales  
14 exempt under RCW 82.04.330.

15        (3)(a) A person claiming an exemption from state tax in the form of  
16 a remittance under this section must pay the tax imposed by RCW  
17 82.08.020. The buyer may then apply to the department for remittance  
18 of all or part of the tax paid under RCW 82.08.020. For grain  
19 elevators with bushel capacity of one million but less than two  
20 million, the remittance is equal to fifty percent of the amount of tax  
21 paid. For warehouses with square footage of two hundred thousand or  
22 more(~~, other than cold storage warehouses,~~) and for grain elevators  
23 with bushel capacity of two million or more, the remittance is equal to  
24 one hundred percent of the amount of tax paid for qualifying  
25 construction, materials, service, and labor, and fifty percent of the  
26 amount of tax paid for qualifying material-handling equipment and  
27 racking equipment, and labor and services rendered in respect to  
28 installing, repairing, cleaning, altering, or improving the equipment.  
29 (~~For cold storage warehouses with square footage of twenty five  
30 thousand or more, the remittance is equal to one hundred percent of the  
31 amount of tax paid for qualifying construction, materials, service, and  
32 labor, and one hundred percent of the amount of tax paid for qualifying  
33 material handling equipment and racking equipment, and labor and  
34 services rendered in respect to installing, repairing, cleaning,  
35 altering, or improving the equipment.~~)

36        (b) The department shall determine eligibility under this section  
37 based on information provided by the buyer and through audit and other  
38 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 and grain elevators; and construction  
9 invoices and documents.

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

13 (4) Warehouses, grain elevators, and material-handling equipment  
14 and racking equipment for which an exemption, credit, or deferral has  
15 been or is being received under chapter 82.60, (~~(82.617)~~) 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. Warehouses and grain elevators upon  
18 which construction was initiated before May 20, 1997, are not eligible  
19 for a remittance under this section.

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

27 **Sec. 13.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to  
28 read as follows:

29 (1) Wholesalers or third-party warehouseers who own or operate  
30 warehouses or grain elevators, and retailers who own or operate  
31 distribution centers, and who have paid the tax levied under RCW  
32 82.12.020 on:

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

36 (b) Materials incorporated in the construction of a warehouse or  
37 grain elevator, are eligible for an exemption on tax paid in the form

1 of a remittance or credit against tax owed. The amount of the  
2 remittance or credit is computed under subsection (2) of this section  
3 and is based on the state share of use tax.

4 (2)(a) A person claiming an exemption from state tax in the form of  
5 a remittance under this section must pay the tax imposed by RCW  
6 82.12.020 to the department. The person may then apply to the  
7 department for remittance of all or part of the tax paid under RCW  
8 82.12.020. For grain elevators with bushel capacity of one million but  
9 less than two million, the remittance is equal to fifty percent of the  
10 amount of tax paid. For warehouses with square footage of two hundred  
11 thousand or more(~~(, other than cold storage warehouses,)~~) and for grain  
12 elevators with bushel capacity of two million or more, the remittance  
13 is equal to one hundred percent of the amount of tax paid for  
14 qualifying construction materials, and fifty percent of the amount of  
15 tax paid for qualifying material-handling equipment and racking  
16 equipment. (~~(For cold storage warehouses with square footage of  
17 twenty five thousand or more, the remittance is equal to one hundred  
18 percent of the amount of tax paid for qualifying construction,  
19 materials, service, and labor, and one hundred percent of the amount of  
20 tax paid for qualifying material handling equipment and racking  
21 equipment, and labor and services rendered in respect to installing,  
22 repairing, cleaning, altering, or improving the equipment.)~~)

23 (b) The department shall determine eligibility under this section  
24 based on information provided by the buyer and through audit and other  
25 administrative records. The buyer shall on a quarterly basis submit an  
26 information sheet, in a form and manner as required by the department  
27 by rule, specifying the amount of exempted tax claimed and the  
28 qualifying purchases or acquisitions for which the exemption is  
29 claimed. The buyer shall retain, in adequate detail to enable the  
30 department to determine whether the equipment or construction meets the  
31 criteria under this section: Invoices; proof of tax paid; documents  
32 describing the material-handling equipment and racking equipment;  
33 location and size of warehouses, if applicable; and construction  
34 invoices and documents.

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

1 (3) Warehouse, grain elevators, and material-handling equipment and  
2 racking equipment for which an exemption, credit, or deferral has been  
3 or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or 82.63  
4 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
5 remittance under this section. Materials incorporated in warehouses  
6 and grain elevators upon which construction was initiated prior to May  
7 20, 1997, are not eligible for a remittance under this section.

8 (4) The lessor or owner of the warehouse or grain elevator is not  
9 eligible for a remittance or credit under this section unless the  
10 underlying ownership of the warehouse or grain elevator and material-  
11 handling equipment and racking equipment vests exclusively in the same  
12 person, or unless the lessor by written contract agrees to pass the  
13 economic benefit of the exemption to the lessee in the form of reduced  
14 rent payments.

15 (5) The definitions in RCW 82.08.820 apply to this section.

16 **Sec. 14.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to  
17 read as follows:

18 (1) Persons required to file surveys under RCW 82.04.4452,  
19 82.32.610, or 82.74.040 must electronically file with the department  
20 all surveys, returns, and any other forms or information the department  
21 requires in an electronic format as provided or approved by the  
22 department(~~(, unless the department grants relief under subsection (2)~~  
23 ~~of this section)~~). As used in this section, "returns" has the same  
24 meaning as "return" in RCW 82.32.050.

25 (2) (~~Upon request, the department may relieve a person of the~~  
26 ~~obligations in subsection (1) of this section if the person's taxes~~  
27 ~~have been reduced a cumulative total of less than one thousand dollars~~  
28 ~~from all of the credits, exemptions, or preferential business and~~  
29 ~~occupation tax rates, for which a person is required to file an annual~~  
30 ~~survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,~~  
31 ~~82.32.560, 82.60.070, or 82.63.020.~~

32 (3) ~~Persons who no longer qualify for relief under subsection (2)~~  
33 ~~of this section will be notified in writing by the department and must~~  
34 ~~comply with subsection (1) of this section by the date provided in the~~  
35 ~~notice.~~

36 (4)) Any survey, return, or any other form or information required

1 to be filed in an electronic format under subsection (1) of this  
2 section is not filed until received by the department in an electronic  
3 format.

4 (3) The department may waive the electronic filing requirement in  
5 subsection (1) of this section for good cause shown.

6 **Sec. 15.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to  
7 read as follows:

8 (1) If the department finds that the failure of a taxpayer to file  
9 an annual survey under RCW 82.04.4452, 82.32.610, or 82.74.040 by the  
10 due date was the result of circumstances beyond the control of the  
11 taxpayer, the department shall extend the time for filing the survey.  
12 Such extension shall be for a period of thirty days from the date the  
13 department issues its written notification to the taxpayer that it  
14 qualifies for an extension under this section. The department may  
15 grant additional extensions as it deems proper.

16 (2) In making a determination whether the failure of a taxpayer to  
17 file an annual survey by the due date was the result of circumstances  
18 beyond the control of the taxpayer, the department shall be guided by  
19 rules adopted by the department for the waiver or cancellation of  
20 penalties when the underpayment or untimely payment of any tax was due  
21 to circumstances beyond the control of the taxpayer.

22 NEW SECTION. **Sec. 16.** (1) Except as otherwise provided in this  
23 section, this act takes effect July 1, 2006.

24 (2) Sections 6 through 9 and 11 of this act take effect July 1,  
25 2007.

26 (3) Sections 12 and 13 of this act take effect July 1, 2012.

27 NEW SECTION. **Sec. 17.** Section 10 of this act expires July 1,  
28 2007.

29 NEW SECTION. **Sec. 18.** Section 11 of this act expires July 1,  
30 2012."

**EHB 3159** - S AMD

By Senators Prentice, Rasmussen, Zarelli, Mulliken, Doumit,  
Schoesler

**ADOPTED 03/07/2006**

1       On page 1, line 1 of the title, after "products;" strike the  
2 remainder of the title and insert "amending RCW 82.04.4266, 82.32.610,  
3 82.74.010, 82.74.030, 82.74.040, 82.74.050, 82.08.820, 82.08.820,  
4 82.08.820, 82.12.820, 82.32.600, and 82.32.590; reenacting and amending  
5 RCW 82.04.260; adding new sections to chapter 82.04 RCW; providing  
6 effective dates; and providing expiration dates."

**--- END ---**