

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1902

60th Legislature
2007 Regular Session

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

Speaker of the House of Representatives

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

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

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.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1902

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Representatives Grant, Newhouse, Linville, Orcutt, Blake, Hailey,
Walsh, P. Sullivan, Kristiansen, Dunn and Hinkle

Read first time 01/31/2007. Referred to Committee on Finance.

1 AN ACT Relating to the sales and use taxation of repairs to farm
2 machinery and equipment; amending RCW 82.08.855 and 82.12.855; and
3 prescribing penalties.

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

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

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

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

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

12 (c) Labor and services rendered in respect to the repairing of
13 qualifying farm machinery and equipment, provided that during the
14 course of repairing no tangible personal property is installed,
15 incorporated, or placed in, or becomes an ingredient or component of,
16 the qualifying farm machinery and equipment other than replacement
17 parts.

18 (2) (a) Notwithstanding anything to the contrary in this chapter, if
19 ~~((replacement parts are installed by the seller during the course of~~

1 ~~repairing, cleaning, altering, or improving qualifying farm machinery~~
2 ~~and equipment and the seller makes a separate charge for the parts, the~~
3 ~~tax levied by RCW 82.08.020 does not apply to the separately stated~~
4 ~~charge to an eligible farmer for replacement parts but only if the~~
5 ~~separately stated charge does not exceed either the seller's current~~
6 ~~publicly stated retail price for the parts or, if no separately stated~~
7 ~~retail price is available, the seller's cost for the parts. However,~~
8 ~~the exemption provided by this section shall not apply if replacement~~
9 ~~parts are installed by the seller during the course of repairing,~~
10 ~~cleaning, altering, or improving qualifying farm machinery and~~
11 ~~equipment and the seller makes a single nonitemized charge for~~
12 ~~providing the parts and service))~~ a single transaction involves
13 services that are not exempt under this section and services that would
14 be exempt under this section if provided separately, the exemptions
15 provided in subsection (1)(b) and (c) of this section apply if: (i)
16 The seller makes a separately itemized charge for labor and services
17 described in subsection (1)(b) or (c) of this section; and (ii) the
18 separately itemized charge does not exceed the seller's usual and
19 customary charge for such services.

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

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

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

37 (i) The name and address of the applicant;

1 (ii) The uniform business identifier or tax reporting account
2 number of the applicant, if the applicant is required to be registered
3 with the department;

4 (iii) The type of farming engaged in;

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

8 (A) A copy of the applicant's Schedule F of Form 1040, Form 1120,
9 or other applicable form filed with the internal revenue service
10 indicating the applicant's gross sales or harvested value of
11 agricultural products ((by the applicant in the calendar)) for the tax
12 year ((immediately preceding the year that the application was made to
13 the department)) covered by the return. If ((application is made
14 before the due date of the applicant's)) the applicant has not filed a
15 federal income tax return for the prior ((calendar)) tax year((r)) or
16 ((any extension of the due date)) is not required to file a federal
17 income tax return, the applicant shall provide ((a copy of the
18 appropriate federal income tax form that was due for the second
19 calendar year immediately preceding the year that the application is
20 made to the department. If the applicant is not required to file
21 federal income tax returns, the department may require the applicant to
22 provide copies of other documents establishing the amount of the
23 applicant's gross sales of agricultural products for the relevant
24 calendar year)) copies of other documents establishing the amount of
25 the applicant's gross sales or harvested value of agricultural products
26 for the tax year immediately preceding the year in which an application
27 for exemption under this section is submitted to the department;

28 (B) A declaration signed under penalty of perjury as provided in
29 RCW 9A.72.085 that the applicant is an eligible farmer as defined in
30 subsection (4)(b) of this section. Any person who knowingly makes a
31 materially false statement on an application submitted to the
32 department under the provisions of this section shall be guilty of
33 perjury in the second degree under chapter 9A.72 RCW. In addition, the
34 person is liable for payment of any taxes for which an exemption under
35 this section was claimed, with interest at the rate provided for
36 delinquent taxes, retroactively to the date the exemption was claimed,
37 and penalties as provided under chapter 82.32 RCW;

1 (v) The name of the individual authorized to sign the certificate,
2 printed in a legible fashion;

3 (vi) The signature of the authorized individual; and

4 (vii) Other information the department may require to verify the
5 applicant's eligibility for the exemption.

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

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

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

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

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

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

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

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

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

30 (a) "Agricultural products" has the meaning provided in RCW
31 82.04.213.

32 (b) "Eligible farmer" means:

33 (i) A farmer as defined in RCW 82.04.213 whose gross ~~((proceeds~~
34 ~~of))~~ sales or harvested value of agricultural products grown, raised,
35 or produced by that person is at least ten thousand dollars ~~((in))~~ for
36 ~~the ((calendar))~~ tax year immediately preceding the year in which ~~((a~~
37 ~~claim of exemption is made under this section))~~ an application for
38 exemption under this section is submitted to the department;

1 (ii) The transferee of an exemption certificate under subsection
2 (3)(c)(ii) of this section where the transferred certificate expires
3 before the transferee engages in farming operations for a full
4 ~~((calendar))~~ tax year, if the combined gross ~~((proceeds of))~~ sales
5 ~~((by))~~ or harvested value of agricultural products that the transferor
6 and transferee ~~((of agricultural products that they))~~ have grown,
7 raised, or produced meet the requirements of (b)(i) of this subsection;

8 (iii) A farmer as defined in RCW 82.04.213, who does not meet the
9 definition of "eligible farmer" in (b)(i) or (ii) of this subsection,
10 and who did not engage in farming for the entire ~~((calendar))~~ tax year
11 immediately preceding the year in which application for exemption under
12 this section is ~~((made and who did not engage in farming in any other~~
13 ~~year))~~ submitted to the department, because the farmer is either new to
14 farming or newly returned to farming; or

15 (iv) Anyone who otherwise meets the definition of "eligible farmer"
16 in this subsection except that they are not a "person" as defined in
17 RCW 82.04.030.

18 (c) "Farm vehicle" has the same meaning as in RCW 46.04.181.

19 (d) "Harvested value" means the number of units of the agricultural
20 product that were grown, raised, or produced, multiplied by the average
21 sales price of the agricultural product. For purposes of this
22 subsection (4)(d), "average sales price" means the average price per
23 unit of agricultural product received by farmers in this state as
24 reported by the United States department of agriculture's national
25 agricultural statistics service for the twelve-month period that
26 coincides with, or that ends closest to, the end of the relevant tax
27 year, regardless of whether the prices are subject to revision. If the
28 price per unit of an agricultural product received by farmers in this
29 state is not available from the national agricultural statistics
30 service, average sales price may be determined by using the average
31 price per unit of agricultural product received by farmers in this
32 state as reported by a recognized authority for the agricultural
33 product.

34 (e) "Qualifying farm machinery and equipment" means machinery and
35 equipment used primarily by an eligible farmer for growing, raising, or
36 producing agricultural products. "Qualifying farm machinery and
37 equipment" does not include:

1 (i) (~~Farm vehicles and other~~) Vehicles as (those terms are
2 defined in chapter 46.04 RCW, except) defined in RCW 46.04.670, other
3 than farm tractors as defined in RCW 46.04.180, farm vehicles, and
4 other farm implements. For purposes of this subsection
5 (4)((e))(e)(i), "farm implement" means machinery or equipment
6 manufactured, designed, or reconstructed for agricultural purposes and
7 used primarily by an eligible farmer to grow, raise, or produce
8 agricultural products, but does not include lawn tractors and
9 all-terrain vehicles;

10 (ii) Aircraft;

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

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

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

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

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

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

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

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

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

35 (c) Labor and services rendered in respect to the repairing of
36 qualifying farm machinery and equipment, provided that during the

1 course of repairing no tangible personal property is installed,
2 incorporated, or placed in, or becomes a component of, the qualifying
3 farm machinery and equipment other than replacement parts.

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

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

29 (3) The definitions and recordkeeping requirements in RCW
30 82.08.855, other than the exemption certificate requirement, apply to
31 this section.

32 (4) If a person is an eligible farmer as defined in RCW
33 82.08.855(4)(b)(iii) who cannot prove income because the person is new
34 to farming or newly returned to farming, the exemption under this
35 section will apply only if one of the conditions in RCW
36 82.08.855(3)(d)(i)(A) or (B) is met. If the conditions are not met,
37 any taxes for which an exemption under this section was claimed and
38 interest on such taxes must be paid. Amounts due under this subsection

1 shall be in accordance with RCW 82.08.855(3)(d)(ii), except that the
2 due date for payment is January 31st of the year immediately following
3 the first full tax year in which the person engaged in business as a
4 farmer.

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

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