
ENGROSSED SUBSTITUTE SENATE BILL 5608

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Snyder, McDonald, Loveland, West, Bauer, Hale, Rasmussen and Oke; by request of Department of Revenue)

Read first time 02/26/1999.

1 AN ACT Relating to revising the machinery and equipment tax
2 exemption by more precisely describing terminology and eligibility;
3 amending RCW 82.04.120, 82.08.02565, 82.08.02565, and 82.12.02565;
4 creating new sections; providing an effective date; and declaring an
5 emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the application
8 of the manufacturer's machinery and equipment sales and use tax
9 exemption has, in some cases, been difficult and confusing for
10 taxpayers. In this act, the legislature clarifies the original intent
11 of the exemption and its application by explicitly and clearly defining
12 those items of machinery and equipment that are exempt from tax. This
13 act clarifies the definition of "manufacturing" by defining those
14 logging, rock crushing, and testing activities that are exempt and
15 clarifies the definition of "used directly" by clearly stating that, in
16 order to qualify for the exemption, the machinery and equipment must be
17 used so that the major benefit is for exempt purposes.

1 **Sec. 2.** RCW 82.04.120 and 1998 c 168 s 1 are each amended to read
2 as follows:

3 "To manufacture" embraces all activities of a commercial or
4 industrial nature wherein labor or skill is applied, by hand or
5 machinery, to materials so that as a result thereof a new, different or
6 useful substance or article of tangible personal property is produced
7 for sale or commercial or industrial use, and shall include: (1) The
8 production or fabrication of special made or custom made articles;
9 (~~and~~) (2) the production or fabrication of dental appliances,
10 devices, restorations, substitutes, or other dental laboratory products
11 by a dental laboratory or dental technician; (3) cutting, delimiting,
12 and measuring of felled, cut, or taken trees; and (4) crushing and/or
13 blending of rock, sand, stone, gravel, or ore.

14 "To manufacture" shall not include: Conditioning of seed for use
15 in planting; cubing hay or alfalfa; (~~or~~) activities which consist of
16 cutting, grading, or ice glazing seafood which has been cooked, frozen,
17 or canned outside this state; or the growing, harvesting, or producing
18 of agricultural products.

19 **Sec. 3.** RCW 82.08.02565 and 1998 c 330 s 1 are each amended to
20 read as follows:

21 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
22 manufacturer or processor for hire of machinery and equipment used
23 directly in a manufacturing operation or research and development
24 operation, or to sales of or charges made for labor and services
25 rendered in respect to installing, repairing, cleaning, altering, or
26 improving the machinery and equipment, but only when the purchaser
27 provides the seller with an exemption certificate in a form and manner
28 prescribed by the department by rule. The seller shall retain a copy
29 of the certificate for the seller's files.

30 (2) For purposes of this section and RCW 82.12.02565:

31 (a) "Machinery and equipment" means industrial fixtures, devices,
32 and support facilities, and tangible personal property that becomes an
33 ingredient or component thereof, including repair parts and replacement
34 parts. "Machinery and equipment" includes pollution control equipment
35 installed and used in a manufacturing operation or research and
36 development operation to prevent air pollution, water pollution, or
37 contamination that might otherwise result from the manufacturing
38 operation or research and development operation.

1 (b) "Machinery and equipment" does not include:
2 (i) Hand-powered tools;
3 (ii) Property with a useful life of less than one year;
4 (iii) Buildings, other than machinery and equipment that is
5 permanently affixed to or becomes a physical part of a building; and
6 (iv) Building fixtures that are not integral to the manufacturing
7 operation or research and development operation that are permanently
8 affixed to and become a physical part of a building, such as utility
9 systems for heating, ventilation, air conditioning, communications,
10 plumbing, or electrical.

11 (c) Machinery and equipment is "used directly" in a manufacturing
12 operation or research and development operation if for at least fifty
13 percent of its use, as measured by time, value, volume, or other
14 measurement for comparison, the machinery and equipment:

15 (i) Acts upon or interacts with an item of tangible personal
16 property;

17 (ii) Conveys, transports, handles, or temporarily stores an item of
18 tangible personal property at the manufacturing site;

19 (iii) Controls, guides, measures, verifies, aligns, regulates, or
20 tests tangible personal property either at the site or away from the
21 site, such as the road testing, air testing, or water testing of
22 products, or other testing that cannot be done at the manufacturing
23 site because of the nature of the testing involved;

24 (iv) Provides physical support for or access to tangible personal
25 property;

26 (v) Produces power for, or lubricates machinery and equipment;

27 (vi) Produces another item of tangible personal property for use in
28 the manufacturing operation or research and development operation;

29 (vii) Places tangible personal property in the container, package,
30 or wrapping in which the tangible personal property is normally sold or
31 transported; or

32 (viii) Is integral to research and development as defined in RCW
33 82.63.010.

34 (d) "Manufacturing operation" means the manufacturing of articles,
35 substances, or commodities for sale as tangible personal property.
36 ((The)) A manufacturing operation begins at the point where the raw
37 materials enter the manufacturing site and ends at the point where the
38 ((finished product)) processed material leaves the manufacturing site.
39 The term also includes that portion of a cogeneration project that is

1 used to generate power for consumption within the manufacturing site of
2 which the cogeneration project is an integral part. The term does not
3 include the production of electricity by a light and power business as
4 defined in RCW 82.16.010 or the preparation of food products on the
5 premises of a person selling food products at retail.

6 (e) "Cogeneration" means the simultaneous generation of electrical
7 energy and low-grade heat from the same fuel.

8 (f) "Research and development operation" means engaging in research
9 and development as defined in RCW 82.63.010 by a manufacturer or
10 processor for hire.

11 NEW SECTION. **Sec. 4.** The legislature intends that sections 2 and
12 3 of this act be clarifying in nature and are retroactive in response
13 to the administrative difficulties encountered in implementing the
14 original legislation.

15 **Sec. 5.** RCW 82.08.02565 and 1999 c . . . s 3 (section 3 of this
16 act) are each amended to read as follows:

17 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
18 manufacturer or processor for hire of machinery and equipment used
19 directly in a manufacturing operation or research and development
20 operation, to sales to a person engaged in testing for a manufacturer
21 or processor for hire of machinery and equipment used directly in a
22 testing operation, or to sales of or charges made for labor and
23 services rendered in respect to installing, repairing, cleaning,
24 altering, or improving the machinery and equipment, but only when the
25 purchaser provides the seller with an exemption certificate in a form
26 and manner prescribed by the department by rule. The seller shall
27 retain a copy of the certificate for the seller's files.

28 (2) For purposes of this section and RCW 82.12.02565:

29 (a) "Machinery and equipment" means industrial fixtures, devices,
30 and support facilities, and tangible personal property that becomes an
31 ingredient or component thereof, including repair parts and replacement
32 parts. "Machinery and equipment" includes pollution control equipment
33 installed and used in a manufacturing operation, testing operation, or
34 research and development operation to prevent air pollution, water
35 pollution, or contamination that might otherwise result from the
36 manufacturing operation, testing operation, or research and development
37 operation.

1 (b) "Machinery and equipment" does not include:

2 (i) Hand-powered tools;

3 (ii) Property with a useful life of less than one year;

4 (iii) Buildings, other than machinery and equipment that is
5 permanently affixed to or becomes a physical part of a building; and
6 (iv) Building fixtures that are not integral to the manufacturing
7 operation, testing operation, or research and development operation
8 that are permanently affixed to and become a physical part of a
9 building, such as utility systems for heating, ventilation, air
10 conditioning, communications, plumbing, or electrical.

11 (c) Machinery and equipment is "used directly" in a manufacturing
12 operation, testing operation, or research and development operation if
13 for at least fifty percent of its use, as measured by time, value,
14 volume, or other measurement for comparison, the machinery and
15 equipment:

16 (i) Acts upon or interacts with an item of tangible personal
17 property;

18 (ii) Conveys, transports, handles, or temporarily stores an item of
19 tangible personal property at the manufacturing site or testing site;

20 (iii) Controls, guides, measures, verifies, aligns, regulates, or
21 tests tangible personal property either at the site or away from the
22 site, such as the road testing, air testing, or water testing of
23 products, or other testing that cannot be done at the manufacturing
24 site because of the nature of the testing involved;

25 (iv) Provides physical support for or access to tangible personal
26 property;

27 (v) Produces power for, or lubricates machinery and equipment;

28 (vi) Produces another item of tangible personal property for use in
29 the manufacturing operation, testing operation, or research and
30 development operation;

31 (vii) Places tangible personal property in the container, package,
32 or wrapping in which the tangible personal property is normally sold or
33 transported; or

34 (viii) Is integral to research and development as defined in RCW
35 82.63.010.

36 (d) "Manufacturing operation" means the manufacturing of articles,
37 substances, or commodities for sale as tangible personal property. A
38 manufacturing operation begins at the point where the raw materials
39 enter the manufacturing site and ends at the point where the processed

1 material leaves the manufacturing site. The term also includes that
2 portion of a cogeneration project that is used to generate power for
3 consumption within the manufacturing site of which the cogeneration
4 project is an integral part. The term does not include the production
5 of electricity by a light and power business as defined in RCW
6 82.16.010 or the preparation of food products on the premises of a
7 person selling food products at retail.

8 (e) "Cogeneration" means the simultaneous generation of electrical
9 energy and low-grade heat from the same fuel.

10 (f) "Research and development operation" means engaging in research
11 and development as defined in RCW 82.63.010 by a manufacturer or
12 processor for hire.

13 (g) "Testing" means activities performed to establish or determine
14 the properties, qualities, and limitations of tangible personal
15 property.

16 (h) "Testing operation" means the testing of tangible personal
17 property for a manufacturer or processor for hire. A testing operation
18 begins at the point where the tangible personal property enters the
19 testing site and ends at the point where the tangible personal property
20 leaves the testing site. The term also includes that portion of a
21 cogeneration project that is used to generate power for consumption
22 within the site of which the cogeneration project is an integral part.
23 The term does not include the production of electricity by a light and
24 power business as defined in RCW 82.16.010 or the preparation of food
25 products on the premises of a person selling food products at retail.

26 **Sec. 6.** RCW 82.12.02565 and 1998 c 330 s 2 are each amended to
27 read as follows:

28 The provisions of this chapter shall not apply in respect to the
29 use by a manufacturer or processor for hire of machinery and equipment
30 used directly in a manufacturing operation or research and development
31 operation or to the use by a person engaged in testing for a
32 manufacturer or processor for hire of machinery and equipment used
33 directly in a testing operation.

34 NEW SECTION. **Sec. 7.** Sections 1 through 4 of this act are
35 necessary for the immediate preservation of the public peace, health,
36 or safety, or support of the state government and its existing public
37 institutions, and take effect immediately.

1 NEW SECTION. **Sec. 8.** Sections 5 and 6 of this act are necessary
2 for the immediate preservation of the public peace, health, or safety,
3 or support of the state government and its existing public
4 institutions, and take effect July 1, 1999.

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