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HOUSE BILL 1241

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Sullivan, Crouse, Wood, Morris, Grant, Schoesler, Quall, Ruderman and Schindler

Read first time 01/21/2003. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to tax incentives for the distribution and retail  
2 sale of biodiesel and alcohol fuels; amending RCW 82.14.050; adding a  
3 new section to chapter 82.04 RCW; adding a new section to chapter 82.08  
4 RCW; adding a new section to chapter 82.12 RCW; adding a new section to  
5 chapter 82.14 RCW; adding a new section to chapter 84.36 RCW; providing  
6 an effective date; providing expiration dates; and declaring an  
7 emergency.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
10 to read as follows:

11 (1) In computing tax there may be deducted from the measure of tax  
12 amounts received from the retail sale, or for the distribution, of  
13 biodiesel or alcohol fuel.

14 (2) For the purposes of this act, the following definitions apply:

15 (a) "Biodiesel fuel" means diesel fuel that consists of a mono  
16 alkyl ester of long chain fatty acids derived from vegetable oils or  
17 animal fats for use in compression-ignition engines and that meets the  
18 requirements of the American society of testing and materials  
19 specification D 6751 when blended with conventional diesel fuel.

1 (b) "Alcohol fuel" means any alcohol made from a product other than  
2 petroleum or natural gas, which is used alone or in combination with  
3 gasoline or other petroleum products for use as a fuel for motor  
4 vehicles, farm implements and machines, or implements of husbandry.

5 (3) This section expires July 1, 2009.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW  
7 to read as follows:

8 (1) Persons who sell biodiesel or alcohol fuel at retail, or who  
9 distribute biodiesel or alcohol fuel, and who have paid tax on  
10 qualifying investment projects are eligible for an exemption in the  
11 form of a remittance.

12 (2)(a) A person claiming an exemption from state tax in the form of  
13 a remittance under this section must pay the tax imposed under RCW  
14 82.08.020. The buyer may then apply to the department for remittance  
15 of all or part of the tax paid.

16 If the qualifying investment project is to be used in part for  
17 biodiesel or alcohol fuel refueling or distribution and in part for  
18 other activities, the amount of tax that may be exempted and claimed  
19 shall be based on the expected percentage of sales derived from the new  
20 tangible personal property that is attributable to the biodiesel or  
21 alcohol fuel refueling or distribution.

22 (b) The department shall determine eligibility under this section  
23 based on information provided by the buyer and through audit and other  
24 administrative records. The buyer shall on a quarterly basis submit an  
25 information sheet, in a form and manner as required by the department,  
26 specifying the amount of exempted tax claimed and the qualifying  
27 investment project for which the exemption is claimed. The buyer shall  
28 retain, in adequate detail to enable the department to determine  
29 whether the investment project meets the criteria under this section:  
30 Invoices; proof of tax paid; documents describing the investment  
31 project; and, if part of the project is to be used for activities other  
32 than biodiesel or alcohol fuel refueling or distribution, estimates of  
33 expected sales attributable to the refueling and distribution and  
34 expected sales attributable to other activities.

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

1 (3) If the part of the qualifying investment project for which an  
2 exemption is claimed is used for an activity other than biodiesel or  
3 alcohol fuel refueling or distribution within three years of initial  
4 operation, all tax exempted under this section shall be due.

5 (4) For the purposes of this section, the definitions in section 1  
6 of this act and the following definitions apply:

7 (a) "Biodiesel or alcohol fuel refueling" means refueling with, and  
8 "biodiesel or alcohol fuel distribution" means the distribution of,  
9 fuel that contains at least twenty percent biodiesel fuel by volume or  
10 at least ten percent alcohol fuel by volume.

11 (b) "Qualifying investment project" means:

12 (i) Tangible personal property, and labor and services related to  
13 the construction or installation of the personal property, acquired  
14 after the effective date of this act and to be used for biodiesel or  
15 alcohol fuel refueling; or

16 (ii) Motorized vehicles and other tangible personal property  
17 directly related to motorized vehicular transportation, acquired after  
18 the effective date of this act and to be used for biodiesel or alcohol  
19 fuel distribution.

20 (5) This section expires July 1, 2009.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW  
22 to read as follows:

23 (1) Persons who sell biodiesel or alcohol fuel at retail, or who  
24 distribute biodiesel or alcohol fuel, and who have paid tax on  
25 qualifying investment projects are eligible for an exemption in the  
26 form of a remittance.

27 (2)(a) A person claiming an exemption from state tax in the form of  
28 a remittance under this section must pay the tax imposed under RCW  
29 82.12.020. The buyer may then apply to the department for remittance  
30 of all or part of the tax paid.

31 If the qualifying investment project is to be used in part for  
32 biodiesel or alcohol fuel refueling or distribution and in part for  
33 other activities, the amount of tax that may be exempted and claimed  
34 shall be based on the expected percentage of sales derived from the new  
35 tangible personal property that is attributable to the biodiesel or  
36 alcohol fuel refueling or distribution.

1 (b) Eligibility requirements under this section are the same as  
2 those under section 2 of this act.

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

6 (3) If the part of the qualifying investment project for which an  
7 exemption is claimed is used for an activity other than biodiesel or  
8 alcohol fuel refueling or distribution within three years of initial  
9 operation, all tax exempted under this section shall be due.

10 (4) For the purposes of this section, the definitions in sections  
11 1 and 2 of this act apply.

12 (5) This section expires July 1, 2009.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.14 RCW  
14 to read as follows:

15 (1) The legislative authority of a local government jurisdiction  
16 may allow an exemption, in the form of a remittance, from taxes under  
17 this chapter to persons who sell biodiesel or alcohol fuel at retail,  
18 or who distribute biodiesel or alcohol fuel, and who have paid tax on  
19 qualifying investment projects.

20 (2)(a) If the local government jurisdiction has enacted the  
21 exemption under this section, a person may claim an exemption from tax  
22 in the form of a remittance under this section after paying all  
23 applicable taxes imposed under this chapter. The buyer may then apply  
24 to the department for remittance of all or part of the tax paid at the  
25 same time application for remittance of state tax is made under section  
26 2 or 3 of this act.

27 If the qualifying investment project is to be used in part for  
28 biodiesel or alcohol fuel refueling or distribution and in part for  
29 other activities, the amount of tax that may be exempted and claimed  
30 shall be based on the expected percentage of sales derived from the new  
31 tangible personal property that is attributable to the biodiesel or  
32 alcohol fuel refueling or distribution.

33 (b) Eligibility requirements under this section are the same as  
34 those under section 2 of this act.

35 (c) If the local government jurisdiction has enacted the exemption  
36 under this section, the department shall on a quarterly basis, at the

1 same time amounts are remitted under section 2 or 3 of this act, remit  
2 exempted amounts to qualifying persons who submitted applications  
3 during the previous quarter.

4 (3) If the part of the qualifying investment project for which an  
5 exemption is claimed is used for an activity other than biodiesel or  
6 alcohol fuel refueling or distribution within three years of initial  
7 operation, all tax exempted under this section shall be due.

8 (4) For the purposes of this section, "local government  
9 jurisdiction" means any entity that has imposed a tax under this  
10 chapter, and the definitions in sections 1 and 2 of this act apply.

11 (5) This section expires July 1, 2009.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 84.36 RCW  
13 to read as follows:

14 (1) A qualifying investment project as defined under section  
15 2(4)(b)(ii) of this act is exempt from taxation, if at least seventy-  
16 five percent of the fuel distribution activity is biodiesel or alcohol  
17 fuel distribution.

18 (2) This section applies to taxes levied for collection in 2004  
19 through 2009. This section expires January 1, 2010.

20 (3) For the purposes of this section, the definitions in sections  
21 1 and 2 of this act apply.

22 **Sec. 6.** RCW 82.14.050 and 2002 c 56 s 406 are each amended to read  
23 as follows:

24 The counties, cities, and transportation authorities under RCW  
25 82.14.045, public facilities districts under chapters 36.100 and 35.57  
26 RCW, and regional transportation investment districts shall contract,  
27 prior to the effective date of a resolution or ordinance imposing a  
28 sales and use tax, the administration and collection to the state  
29 department of revenue, which shall deduct a percentage amount, as  
30 provided by contract, not to exceed two percent of the taxes collected  
31 for administration and collection expenses incurred by the department.  
32 The remainder of any portion of any tax authorized by this chapter that  
33 is collected by the department of revenue shall be deposited by the  
34 state department of revenue in the local sales and use tax account  
35 hereby created in the state treasury. Moneys in the local sales and  
36 use tax account may be spent only for distribution to counties, cities,

1 transportation authorities, public facilities districts, and regional  
2 transportation investment districts imposing a sales and use tax or for  
3 sales and use tax remittance claims under section 4 of this act. All  
4 administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32  
5 RCW, as they now exist or may hereafter be amended, shall, insofar as  
6 they are applicable to state sales and use taxes, be applicable to  
7 taxes imposed pursuant to this chapter. Except as provided in RCW  
8 43.08.190, all earnings of investments of balances in the local sales  
9 and use tax account shall be credited to the local sales and use tax  
10 account and distributed to the counties, cities, transportation  
11 authorities, public facilities districts, and regional transportation  
12 investment districts monthly.

13 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 July 1, 2003.

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