
ENGROSSED SUBSTITUTE SENATE BILL 6665

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hewitt, Mulliken, Honeyford, Hale, Parlette, Rasmussen and Sheahan)

READ FIRST TIME 02/25/04.

1 AN ACT Relating to the excise taxation of fruit and vegetable
2 processing and storage; amending RCW 82.08.820 and 82.12.820;
3 reenacting and amending RCW 82.04.260; adding a new section to chapter
4 82.04 RCW; adding a new section to chapter 82.32 RCW; adding a new
5 chapter to Title 82 RCW; providing an effective date; and providing an
6 expiration date.

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

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

10 This chapter shall not apply to amounts received from:

11 (1) Canning, preserving, freezing, processing, or dehydrating fresh
12 fruits and vegetables; or

13 (2) Selling at wholesale fresh fruits and vegetables canned,
14 preserved, frozen, processed, or dehydrated by the seller and sold to
15 purchasers who transport in the ordinary course of business the goods
16 out of this state. As proof of sale to a person who transports in the
17 ordinary course of business goods out of this state, the seller shall
18 annually provide a statement in a form prescribed by the department and
19 retain the statement as a business record.

1 **Sec. 2.** RCW 82.04.260 and 2003 2nd sp.s. c 1 s 4 and 2003 2nd
2 sp.s. c 1 s 3 are each reenacted and amended to read as follows:

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

5 (a) Wheat into flour, barley into pearl barley, soybeans into
6 soybean oil, canola into canola oil, canola meal, or canola byproducts,
7 or sunflower seeds into sunflower oil; as to such persons the amount of
8 tax with respect to such business shall be equal to the value of the
9 flour, pearl barley, oil, canola meal, or canola byproduct
10 manufactured, multiplied by the rate of 0.138 percent;

11 (b) Seafood products which remain in a raw, raw frozen, or raw
12 salted state at the completion of the manufacturing by that person; as
13 to such persons the amount of tax with respect to such business shall
14 be equal to the value of the products manufactured, multiplied by the
15 rate of 0.138 percent;

16 (c) ~~((By canning, preserving, freezing, processing, or dehydrating
17 fresh fruits and vegetables, or selling at wholesale fresh fruits and
18 vegetables canned, preserved, frozen, processed, or dehydrated by the
19 seller and sold to purchasers who transport in the ordinary course of
20 business the goods out of this state; as to such persons the amount of
21 tax with respect to such business shall be equal to the value of the
22 products canned, preserved, frozen, processed, or dehydrated multiplied
23 by the rate of 0.138 percent. As proof of sale to a person who
24 transports in the ordinary course of business goods out of this state,
25 the seller shall annually provide a statement in a form prescribed by
26 the department and retain the statement as a business record;~~

27 ~~(d))~~ Dairy products that as of September 20, 2001, are identified
28 in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
29 from the manufacturing of the dairy products such as whey and casein;
30 or selling the same to purchasers who transport in the ordinary course
31 of business the goods out of state; as to such persons the tax imposed
32 shall be equal to the value of the products manufactured multiplied by
33 the rate of 0.138 percent. As proof of sale to a person who transports
34 in the ordinary course of business goods out of this state, the seller
35 shall annually provide a statement in a form prescribed by the
36 department and retain the statement as a business record;

37 ~~((e))~~ (d) Until July 1, 2009, alcohol fuel, biodiesel fuel, or
38 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as

1 to such persons the amount of tax with respect to the business shall be
2 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel
3 feedstock manufactured, multiplied by the rate of 0.138 percent(~~(-~~
4 ~~This subsection (1)(e) expires July 1, 2009))~~); and

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

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

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

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

24 (5) Upon every person engaging within this state in the business of
25 making sales, at retail or wholesale, of nuclear fuel assemblies
26 manufactured by that person, as to such persons the amount of tax with
27 respect to such business shall be equal to the gross proceeds of sales
28 of the assemblies multiplied by the rate of 0.275 percent.

29 (6) Upon every person engaging within this state in the business of
30 manufacturing nuclear fuel assemblies, as to such persons the amount of
31 tax with respect to such business shall be equal to the value of the
32 products manufactured multiplied by the rate of 0.275 percent.

33 (7) Upon every person engaging within this state in the business of
34 acting as a travel agent or tour operator; as to such persons the
35 amount of the tax with respect to such activities shall be equal to the
36 gross income derived from such activities multiplied by the rate of
37 0.275 percent.

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

8 (9) Upon every person engaging within this state in the business of
9 stevedoring and associated activities pertinent to the movement of
10 goods and commodities in waterborne interstate or foreign commerce; as
11 to such persons the amount of tax with respect to such business shall
12 be equal to the gross proceeds derived from such activities multiplied
13 by the rate of 0.275 percent. Persons subject to taxation under this
14 subsection shall be exempt from payment of taxes imposed by chapter
15 82.16 RCW for that portion of their business subject to taxation under
16 this subsection. Stevedoring and associated activities pertinent to
17 the conduct of goods and commodities in waterborne interstate or
18 foreign commerce are defined as all activities of a labor, service or
19 transportation nature whereby cargo may be loaded or unloaded to or
20 from vessels or barges, passing over, onto or under a wharf, pier, or
21 similar structure; cargo may be moved to a warehouse or similar holding
22 or storage yard or area to await further movement in import or export
23 or may move to a consolidation freight station and be stuffed,
24 unstuffed, containerized, separated or otherwise segregated or
25 aggregated for delivery or loaded on any mode of transportation for
26 delivery to its consignee. Specific activities included in this
27 definition are: Wharfage, handling, loading, unloading, moving of
28 cargo to a convenient place of delivery to the consignee or a
29 convenient place for further movement to export mode; documentation
30 services in connection with the receipt, delivery, checking, care,
31 custody and control of cargo required in the transfer of cargo;
32 imported automobile handling prior to delivery to consignee; terminal
33 stevedoring and incidental vessel services, including but not limited
34 to plugging and unplugging refrigerator service to containers,
35 trailers, and other refrigerated cargo receptacles, and securing ship
36 hatch covers.

37 (10) Upon every person engaging within this state in the business
38 of disposing of low-level waste, as defined in RCW 43.145.010; as to

1 such persons the amount of the tax with respect to such business shall
2 be equal to the gross income of the business, excluding any fees
3 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
4 percent.

5 If the gross income of the taxpayer is attributable to activities
6 both within and without this state, the gross income attributable to
7 this state shall be determined in accordance with the methods of
8 apportionment required under RCW 82.04.460.

9 (11) Upon every person engaging within this state as an insurance
10 agent, insurance broker, or insurance solicitor licensed under chapter
11 48.17 RCW; as to such persons, the amount of the tax with respect to
12 such licensed activities shall be equal to the gross income of such
13 business multiplied by the rate of 0.484 percent.

14 (12) Upon every person engaging within this state in business as a
15 hospital, as defined in chapter 70.41 RCW, that is operated as a
16 nonprofit corporation or by the state or any of its political
17 subdivisions, as to such persons, the amount of tax with respect to
18 such activities shall be equal to the gross income of the business
19 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
20 percent thereafter. The moneys collected under this subsection shall
21 be deposited in the health services account created under RCW
22 43.72.900.

23 (13)(a) Beginning October 1, 2005, upon every person engaging
24 within this state in the business of manufacturing commercial
25 airplanes, or components of such airplanes, as to such persons the
26 amount of tax with respect to such business shall, in the case of
27 manufacturers, be equal to the value of the product manufactured, or in
28 the case of processors for hire, be equal to the gross income of the
29 business, multiplied by the rate of:

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

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

37 (b) Beginning October 1, 2005, upon every person engaging within
38 this state in the business of making sales, at retail or wholesale, of

1 commercial airplanes, or components of such airplanes, manufactured by
2 that person, as to such persons the amount of tax with respect to such
3 business shall be equal to the gross proceeds of sales of the airplanes
4 or components multiplied by the rate of:

5 (i) 0.4235 percent from October 1, 2005, through the later of June
6 30, 2007, or the day preceding the date final assembly of a
7 superefficient airplane begins in Washington state, as determined under
8 RCW 82.32.550; and

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

12 (c) For the purposes of this subsection (13), "commercial
13 airplane," "component," and "final assembly of a superefficient
14 airplane" have the meanings given in RCW 82.32.550.

15 (d) In addition to all other requirements under this title, a
16 person eligible for the tax rate under this subsection (13) must report
17 as required under RCW 82.32.545.

18 (e) This subsection (13) does not apply after the earlier of: July
19 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
20 does not begin by December 31, 2007, as determined under RCW 82.32.550.

21 NEW SECTION. **Sec. 3.** Unless the context clearly requires
22 otherwise, the definitions in this section apply throughout this
23 chapter.

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

26 (2) "Cold storage warehouse" means a storage warehouse used to
27 store fresh and/or frozen perishable fruits or vegetables, or any
28 combination thereof, at a desired temperature to maintain the quality
29 of the product for orderly marketing.

30 (3) "Department" means the department of revenue.

31 (4) "Eligible investment project" means an investment in qualified
32 buildings or qualified machinery and equipment, including labor and
33 services rendered in the planning, installation, and construction of
34 the project. The lessor or owner of the qualified building is not
35 eligible for a deferral unless (a) the underlying ownership of the
36 buildings, machinery, and equipment vests exclusively in the same
37 person; or (b)(i) the lessor by written contract agrees to pass the

1 economic benefit of the deferral to the lessee in the form of reduced
2 rent payments, and (ii) the lessee that receives the economic benefit
3 of the deferral agrees in writing with the department to complete the
4 annual report under section 6 of this act. The economic benefit of the
5 deferral to the lessee may be evidenced by any type of payment, credit,
6 or any other financial arrangement between the lessor or owner of the
7 qualified building and the lessee.

8 (5) "Fresh fruit and vegetable processing" means manufacturing as
9 defined in RCW 82.04.120 which consists of the canning, preserving,
10 freezing, processing, or dehydrating fresh fruits and/or vegetables.

11 (6) "Person" has the meaning given in RCW 82.04.030.

12 (7) "Qualified buildings" means construction of new structures, and
13 expansion or renovation of existing structures for the purpose of
14 increasing floor space or production capacity used for fresh fruit and
15 vegetable processing, cold storage warehouse, and research and
16 development activities, including plant offices and warehouses or other
17 facilities for the storage of raw material or finished goods if such
18 facilities are an essential or an integral part of a factory, plant, or
19 laboratory used for fresh fruit and vegetable processing, cold storage
20 warehousing, or research and development. If a building is used partly
21 for fresh fruit and vegetable processing, cold storage warehousing, or
22 research and development and partly for other purposes, the applicable
23 tax deferral shall be determined by apportionment of the costs of
24 construction under rules adopted by the department.

25 (8) "Qualified machinery and equipment" means all industrial and
26 research fixtures, equipment, and support facilities that are an
27 integral and necessary part of a fresh fruit and vegetable processing,
28 cold storage warehouse, or research and development operation.
29 "Qualified machinery and equipment" includes: Computers; software;
30 data processing equipment; laboratory equipment; manufacturing
31 components such as belts, pulleys, shafts, and moving parts; molds,
32 tools, and dies; operating structures; and all equipment used to
33 control or operate the machinery.

34 (9) "Recipient" means a person receiving a tax deferral under this
35 chapter.

36 (10) "Research and development" means the development, refinement,
37 testing, marketing, and commercialization of a product, service, or
38 process related to fresh fruit and vegetable processing or cold storage

1 warehousing before commercial sales have begun. As used in this
2 subsection, "commercial sales" excludes sales of prototypes or sales
3 for market testing if the total gross receipts from such sales of the
4 product, service, or process do not exceed one million dollars.

5 NEW SECTION. **Sec. 4.** (1) Application for deferral of taxes under
6 this chapter must be made before initiation of the construction of the
7 investment project or acquisition of equipment or machinery. The
8 application shall be made to the department in a form and manner
9 prescribed by the department. The application shall contain
10 information regarding the location of the investment project, the
11 applicant's average employment in the state for the prior year,
12 estimated or actual new employment related to the project, estimated or
13 actual wages of employees related to the project, estimated or actual
14 costs, time schedules for completion and operation, and other
15 information required by the department.

16 (2) The department shall rule on the application within sixty days.
17 The department shall keep a running total of all deferrals granted
18 under this chapter during each fiscal biennium.

19 (3) No application may be made under this chapter for a project for
20 which a refund is requested under RCW 82.08.820 or 82.12.820.

21 NEW SECTION. **Sec. 5.** (1) The department shall issue a sales and
22 use tax deferral certificate for state and local sales and use taxes
23 due 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, cold storage
26 warehousing, or research and development.

27 (2) This section expires July 1, 2010.

28 NEW SECTION. **Sec. 6.** (1) Each recipient of a deferral granted
29 under this chapter shall submit a report to the department on December
30 31st of the year in which the investment project is certified by the
31 department as having been operationally completed, and on December 31st
32 of each of the seven succeeding calendar years. The report shall
33 contain information, as required by the department, from which the
34 department may determine whether the recipient is meeting the
35 requirements of this chapter. If the recipient fails to submit a

1 report or submits an inadequate report, the department may declare the
2 amount of deferred taxes outstanding to be immediately assessed and
3 payable.

4 (2) If, on the basis of a report under this section or other
5 information, the department finds that an investment project is not
6 eligible for tax deferral under this chapter, the amount of deferred
7 taxes outstanding for the project are immediately due. For any taxes
8 that are due, penalties and interest applicable to delinquent excise
9 taxes shall be assessed and imposed for delinquent payments under this
10 chapter. The debt for deferred taxes will not be extinguished by
11 insolvency or other failure of the recipient. Transfer of ownership
12 does not terminate the deferral. The deferral is transferred, subject
13 to the successor meeting the eligibility requirements of this chapter,
14 for the remaining periods of the deferral.

15 (3) Deferred taxes need not be repaid if the department determines,
16 in accordance with the provisions of subsection (1) of this section,
17 that the recipient has met the requirements of this chapter for the
18 seven calendar years following the certification by the department that
19 the investment project has been operationally completed.

20 NEW SECTION. **Sec. 7.** The employment security department shall
21 make, and certify to the department of revenue, all determinations of
22 employment and wages as requested by the department under this chapter.

23 NEW SECTION. **Sec. 8.** Chapter 82.32 RCW applies to the
24 administration of this chapter.

25 **Sec. 9.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read
26 as follows:

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

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

34 (b) Construction of a warehouse or grain elevator, including
35 materials, and including service and labor costs,

1 are eligible for an exemption in the form of a remittance. The amount
2 of the remittance is computed under subsection (3) of this section and
3 is based on the state share of sales tax.

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

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

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

10 (c) "Construction" means the actual construction of a warehouse or
11 grain elevator that did not exist before the construction began.
12 "Construction" includes expansion if the expansion adds at least
13 twenty-five thousand square feet of additional space to an existing
14 cold storage warehouse, at least two hundred thousand square feet of
15 additional space to an existing warehouse other than a cold storage
16 warehouse, or additional storage capacity of at least one million
17 bushels to an existing grain elevator. "Construction" does not include
18 renovation, remodeling, or repair;

19 ~~((e))~~ (d) "Department" means the department of revenue;

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

24 ~~((e))~~ (f) "Finished goods" means tangible personal property
25 intended for sale by a retailer or wholesaler. "Finished goods" does
26 not include agricultural products stored by wholesalers, third-party
27 warehouses, or retailers if the storage takes place on the land of the
28 person who produced the agricultural product. "Finished goods" does
29 not include logs, minerals, petroleum, gas, or other extracted products
30 stored as raw materials or in bulk;

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

33 ~~((g))~~ (h) "Material-handling equipment and racking equipment"
34 means equipment in a warehouse or grain elevator that is primarily used
35 to handle, store, organize, convey, package, or repackage finished
36 goods. The term includes tangible personal property with a useful life
37 of one year or more that becomes an ingredient or component of the
38 equipment, including repair and replacement parts. The term does not

1 include equipment in offices, lunchrooms, restrooms, and other like
2 space, within a warehouse or grain elevator, or equipment used for
3 nonwarehousing purposes. "Material-handling equipment" includes but is
4 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
5 place units, cranes, hoists, mechanical arms, and robots; mechanized
6 systems, including containers that are an integral part of the system,
7 whose purpose is to lift or move tangible personal property; and
8 automated handling, storage, and retrieval systems, including computers
9 that control them, whose purpose is to lift or move tangible personal
10 property; and forklifts and other off-the-road vehicles that are used
11 to lift or move tangible personal property and that cannot be operated
12 legally on roads and streets. "Racking equipment" includes, but is not
13 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
14 pallets, and other containers and storage devices that form a necessary
15 part of the storage system;

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

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

19 ~~((j))~~ (k) "Square footage" means the product of the two
20 horizontal dimensions of each floor of a specific warehouse. The
21 entire footprint of the warehouse shall be measured in calculating the
22 square footage, including space that juts out from the building profile
23 such as loading docks. "Square footage" does not mean the aggregate of
24 the square footage of more than one warehouse at a location or the
25 aggregate of the square footage of warehouses at more than one
26 location;

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

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

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

5 (3)(a) A person claiming an exemption from state tax in the form of
6 a remittance under this section must pay the tax imposed by RCW
7 82.08.020. The buyer may then apply to the department for remittance
8 of all or part of the tax paid under RCW 82.08.020. For grain
9 elevators with bushel capacity of one million but less than two
10 million, the remittance is equal to fifty percent of the amount of tax
11 paid. For warehouses with square footage of two hundred thousand or
12 more, other than cold storage warehouses, and for grain elevators with
13 bushel capacity of two million or more, the remittance is equal to one
14 hundred percent of the amount of tax paid for qualifying construction,
15 materials, service, and labor, and fifty percent of the amount of tax
16 paid for qualifying material-handling equipment and racking equipment,
17 and labor and services rendered in respect to installing, repairing,
18 cleaning, altering, or improving the equipment. For cold storage
19 warehouses with square footage of twenty-five thousand or more, the
20 remittance is equal to one hundred percent of the amount of tax paid
21 for qualifying construction, materials, service, and labor, and one
22 hundred percent of the amount of tax paid for qualifying material-
23 handling equipment and racking equipment, and labor and services
24 rendered in respect to installing, repairing, cleaning, altering, or
25 improving the equipment.

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

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

4 (4) Warehouses, grain elevators, and material-handling equipment
5 and racking equipment for which an exemption, credit, or deferral has
6 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63
7 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
8 remittance under this section. Warehouses and grain elevators upon
9 which construction was initiated before May 20, 1997, are not eligible
10 for a remittance under this section.

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

18 **Sec. 10.** RCW 82.12.820 and 2003 c 5 s 13 are each amended to read
19 as follows:

20 (1) Wholesalers or third-party warehouse owners who own or operate
21 warehouses or grain elevators, and retailers who own or operate
22 distribution centers, and who have paid the tax levied under RCW
23 82.12.020 on:

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

27 (b) Materials incorporated in the construction of a warehouse or
28 grain elevator, are eligible for an exemption on tax paid in the form
29 of a remittance or credit against tax owed. The amount of the
30 remittance or credit is computed under subsection (2) of this section
31 and is based on the state share of use tax.

32 (2)(a) A person claiming an exemption from state tax in the form of
33 a remittance under this section must pay the tax imposed by RCW
34 82.12.020 to the department. The person may then apply to the
35 department for remittance of all or part of the tax paid under RCW
36 82.12.020. For grain elevators with bushel capacity of one million but
37 less than two million, the remittance is equal to fifty percent of the

1 amount of tax paid. For warehouses with square footage of two hundred
2 thousand or more, other than cold storage warehouses, and for grain
3 elevators with bushel capacity of two million or more, the remittance
4 is equal to one hundred percent of the amount of tax paid for
5 qualifying construction materials, and fifty percent of the amount of
6 tax paid for qualifying material-handling equipment and racking
7 equipment. For cold storage warehouses with square footage of twenty-
8 five thousand or more, the remittance is equal to one hundred percent
9 of the amount of tax paid for qualifying construction, materials,
10 service, and labor, and one hundred percent of the amount of tax paid
11 for qualifying material-handling equipment and racking equipment, and
12 labor and services rendered in respect to installing, repairing,
13 cleaning, altering, or improving the equipment.

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

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

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

36 (4) The lessor or owner of the warehouse or grain elevator is not
37 eligible for a remittance or credit under this section unless the
38 underlying ownership of the warehouse or grain elevator and material-

1 handling equipment and racking equipment vests exclusively in the same
2 person, or unless the lessor by written contract agrees to pass the
3 economic benefit of the exemption to the lessee in the form of reduced
4 rent payments.

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

6 NEW SECTION. **Sec. 11.** Sections 3 through 8 of this act constitute
7 a new chapter in Title 82 RCW.

8 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.32 RCW
9 to read as follows:

10 (1) Each person subject to section 1 of this act, holding a
11 deferral certificate issued pursuant to section 5 of this act, or
12 claiming an exemption under RCW 82.08.820 or 82.12.820 with respect to
13 a cold storage warehouse, shall complete an annual survey. The survey
14 is due by March 31st with respect to information for the previous year.
15 The survey shall include the amount of sales tax deferred or refunded
16 by remittance and the amount of business and occupation tax exempt
17 under this act. The survey shall also include the following
18 information for employment positions in Washington:

- 19 (a) The number of total employment positions;
- 20 (b) Full-time, part-time, and seasonal employment positions as a
21 percent of total employment;
- 22 (c) The number of employment positions according to the following
23 wage bands: Less than twenty thousand dollars; twenty thousand dollars
24 or greater, but less than thirty thousand dollars; and thirty thousand
25 dollars or greater. A wage band containing fewer than three
26 individuals may be combined with another wage band; and
- 27 (d) The number of employment positions that have employer-provided
28 medical, dental, and retirement benefits, by each of the wage bands.

29 The department may request additional information necessary to
30 measure the results of these tax incentives, to be submitted at the
31 same time as the survey.

32 (2) All information collected under this section, except the amount
33 of sales tax deferred or refunded by remittance, is deemed taxpayer
34 information under RCW 82.32.330 and is not disclosable. The amount of
35 sales tax deferred or refunded by remittance is not subject to the
36 confidentiality provisions of RCW 82.32.330 and may be disclosed to the

1 public upon request, except that persons receiving a deferral or
2 remittance of less than ten thousand dollars of sales tax during the
3 period covered by the survey may request the department to treat the
4 sales tax amount as confidential under RCW 82.32.330.

5 (3) The department shall use the information from subsection (1) of
6 this section to prepare summary descriptive statistics by category. No
7 fewer than three taxpayers shall be included in any category. The
8 department shall report these statistics to the legislature each year
9 by September 1st.

10 NEW SECTION. **Sec. 13.** This act takes effect July 1, 2005.

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