

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1977

Chapter 5, Laws of 2003

58th Legislature
2003 Regular Session

TAXATION--SERVICES

EFFECTIVE DATE: 3/18/03

Passed by the House March 13, 2003
Yeas 86 Nays 10

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 14, 2003
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved March 18, 2003.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1977** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

March 18, 2003 - 3:57 p.m.

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1977

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Representatives Grant, DeBolt, Orcutt and Roach

Read first time 02/18/2003. Referred to Committee on Finance.

1 AN ACT Relating to clarifying the intentions of Senate Bill No.
2 6835, chapter 367, Laws of 2002; amending RCW 82.12.010, 82.12.020,
3 82.12.0254, 82.12.0255, 82.12.02565, 82.12.02567, 82.12.0259,
4 82.12.0277, 82.12.0279, 82.12.0315, 82.12.02595, 82.12.810, 82.12.820,
5 82.12.840, 82.12.890, 82.12.900, and 82.12.0251; adding a new section
6 to chapter 82.12 RCW; creating a new section; repealing RCW 82.12.0252;
7 and declaring an emergency.

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

9 **Sec. 1.** RCW 82.12.010 and 2002 c 367 s 3 are each amended to read
10 as follows:

11 For the purposes of this chapter:

12 (1)(a) "Value of the article used" shall mean the consideration,
13 whether money, credit, rights, or other property except trade-in
14 property of like kind, expressed in terms of money, paid or given or
15 contracted to be paid or given by the purchaser to the seller for the
16 article of tangible personal property, the use of which is taxable
17 under this chapter. The term includes the amount of any freight,

1 delivery, or other like transportation charge paid or given by the
2 purchaser to the seller with respect to the purchase of such article.
3 The term also includes, in addition to the consideration paid or given
4 or contracted to be paid or given, the amount of any tariff or duty
5 paid with respect to the importation of the article used. In case the
6 article used is acquired by lease or by gift or is extracted, produced,
7 or manufactured by the person using the same or is sold under
8 conditions wherein the purchase price does not represent the true value
9 thereof, the value of the article used shall be determined as nearly as
10 possible according to the retail selling price at place of use of
11 similar products of like quality and character under such rules as the
12 department of revenue may prescribe.

13 (b) In case the articles used are acquired by bailment, the value
14 of the use of the articles so used shall be in an amount representing
15 a reasonable rental for the use of the articles so bailed, determined
16 as nearly as possible according to the value of such use at the places
17 of use of similar products of like quality and character under such
18 rules as the department of revenue may prescribe. In case any such
19 articles of tangible personal property are used in respect to the
20 construction, repairing, decorating, or improving of, and which become
21 or are to become an ingredient or component of, new or existing
22 buildings or other structures under, upon, or above real property of or
23 for the United States, any instrumentality thereof, or a county or city
24 housing authority created pursuant to chapter 35.82 RCW, including the
25 installing or attaching of any such articles therein or thereto,
26 whether or not such personal property becomes a part of the realty by
27 virtue of installation, then the value of the use of such articles so
28 used shall be determined according to the retail selling price of such
29 articles, or in the absence of such a selling price, as nearly as
30 possible according to the retail selling price at place of use of
31 similar products of like quality and character or, in the absence of
32 either of these selling price measures, such value may be determined
33 upon a cost basis, in any event under such rules as the department of
34 revenue may prescribe.

35 (c) In the case of articles owned by a user engaged in business
36 outside the state which are brought into the state for no more than one
37 hundred eighty days in any period of three hundred sixty-five
38 consecutive days and which are temporarily used for business purposes

1 by the person in this state, the value of the article used shall be an
2 amount representing a reasonable rental for the use of the articles,
3 unless the person has paid tax under this chapter or chapter 82.08 RCW
4 upon the full value of the article used, as defined in (a) of this
5 subsection.

6 (d) In the case of articles manufactured or produced by the user
7 and used in the manufacture or production of products sold or to be
8 sold to the department of defense of the United States, the value of
9 the articles used shall be determined according to the value of the
10 ingredients of such articles.

11 (e) In the case of an article manufactured or produced for purposes
12 of serving as a prototype for the development of a new or improved
13 product, the value of the article used shall be determined by: (i) The
14 retail selling price of such new or improved product when first offered
15 for sale; or (ii) the value of materials incorporated into the
16 prototype in cases in which the new or improved product is not offered
17 for sale.

18 (f) In the case of an article purchased with a direct pay permit
19 under RCW 82.32.087, the value of the article used shall be determined
20 by the retail selling price, as defined in RCW 82.08.010, of such
21 article if but for the use of the direct pay permit the transaction
22 would have been subject to sales tax;

23 (2) "Value of the service used" means the consideration, whether
24 money, credit, rights, or other property, expressed in terms of money,
25 paid or given or contracted to be paid or given by the purchaser to the
26 seller for the service, the use of which is taxable under this chapter.
27 If the service is received by gift or under conditions wherein the
28 purchase price does not represent the true value thereof, the value of
29 the service used shall be determined as nearly as possible according to
30 the retail selling price at place of use of similar services of like
31 quality and character under rules the department of revenue may
32 prescribe;

33 (3) "Use," "used," "using," or "put to use" shall have their
34 ordinary meaning, and shall mean:

35 (a) With respect to tangible personal property, the first act
36 within this state by which the taxpayer takes or assumes dominion or
37 control over the article of tangible personal property (as a consumer),

1 and include installation, storage, withdrawal from storage,
2 distribution, or any other act preparatory to subsequent actual use or
3 consumption within this state; and

4 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
5 first act within this state after the service has been performed by
6 which the taxpayer takes or assumes dominion or control over the
7 article of tangible personal property upon which the service was
8 performed (as a consumer), and include installation, storage,
9 withdrawal from storage, distribution, or any other act preparatory to
10 subsequent actual use or consumption of the article within this state;

11 (4) "Taxpayer" and "purchaser" include all persons included within
12 the meaning of the word "buyer" and the word "consumer" as defined in
13 chapters 82.04 and 82.08 RCW;

14 (5) "Retailer" means every seller as defined in RCW 82.08.010 and
15 every person engaged in the business of selling tangible personal
16 property at retail and every person required to collect from purchasers
17 the tax imposed under this chapter;

18 (6) The meaning ascribed to words and phrases in chapters 82.04 and
19 82.08 RCW, insofar as applicable, shall have full force and effect with
20 respect to taxes imposed under the provisions of this chapter.
21 "Consumer," in addition to the meaning ascribed to it in chapters 82.04
22 and 82.08 RCW insofar as applicable, shall also mean any person who
23 distributes or displays, or causes to be distributed or displayed, any
24 article of tangible personal property, except newspapers, the primary
25 purpose of which is to promote the sale of products or services. With
26 respect to property distributed to persons within this state by a
27 consumer as defined in this subsection (6), the use of the property
28 shall be deemed to be by such consumer.

29 **Sec. 2.** RCW 82.12.020 and 2002 c 367 s 4 are each amended to read
30 as follows:

31 (1) There is hereby levied and there shall be collected from every
32 person in this state a tax or excise for the privilege of using within
33 this state as a consumer: (a) Any article of tangible personal
34 property purchased at retail, or acquired by lease, gift, repossession,
35 or bailment, or extracted or produced or manufactured by the person so
36 using the same, or otherwise furnished to a person engaged in any
37 business taxable under RCW 82.04.280 (2) or (7); or (b) any canned

1 software, regardless of the method of delivery, but excluding canned
2 software that is either provided free of charge or is provided for
3 temporary use in viewing information, or both.

4 (2) This tax shall apply to the use of every service defined as a
5 retail sale in RCW 82.04.050 (2)(a) or (3)(a) and the use of every
6 article of tangible personal property, including property acquired at
7 a casual or isolated sale, and including byproducts used by the
8 manufacturer thereof, except as hereinafter provided, irrespective of
9 whether the article or similar articles are manufactured or are
10 available for purchase within this state.

11 (3) The provisions of this chapter do not apply in respect to the
12 use of any article of tangible personal property or service taxable
13 under RCW 82.04.050(2)(a) or (3)(a) purchased at retail or acquired by
14 lease, gift, or bailment if the sale to, or the use by, the present
15 user or his bailor or donor has already been subjected to the tax under
16 chapter 82.08 RCW or this chapter and the tax has been paid by the
17 present user or by his bailor or donor.

18 (4) Except as provided in (~~RCW 82.12.0252~~) this section, payment
19 by one purchaser or user of tangible personal property or service of
20 the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect
21 of exempting any other purchaser or user of the same property or
22 service from the taxes imposed by such chapters. If the sale to, or
23 the use by, the present user or his or her bailor or donor has already
24 been subjected to the tax under chapter 82.08 RCW or this chapter and
25 the tax has been paid by the present user or by his or her bailor or
26 donor; or in respect to the use of property acquired by bailment and
27 the tax has once been paid based on reasonable rental as determined by
28 RCW 82.12.060 measured by the value of the article at time of first use
29 multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter
30 as of the time of first use; or in respect to the use of any article of
31 tangible personal property acquired by bailment, if the property was
32 acquired by a previous bailee from the same bailor for use in the same
33 general activity and the original bailment was prior to June 9, 1961,
34 the tax imposed by this chapter does not apply.

35 (~~(4)~~) (5) The tax shall be levied and collected in an amount
36 equal to the value of the article used or value of the service used by
37 the taxpayer multiplied by the rate in effect for the retail sales tax
38 under RCW 82.08.020.

1 **Sec. 3.** RCW 82.12.0254 and 1998 c 311 s 7 are each amended to read
2 as follows:

3 (1) The provisions of this chapter shall not apply in respect to
4 the use of any airplane, locomotive, railroad car, or watercraft used
5 primarily in conducting interstate or foreign commerce by transporting
6 therein or therewith property and persons for hire or used primarily in
7 commercial deep sea fishing operations outside the territorial waters
8 of the state, and in respect to use of tangible personal property which
9 becomes a component part of any such airplane, locomotive, railroad
10 car, or watercraft(~~(, and)~~) in the course of repairing, cleaning,
11 altering, or improving the same; also the use of labor and services
12 rendered in respect to such repairing, cleaning, altering, or
13 improving.

14 (2) The provisions of this chapter shall not apply in respect to
15 the use by a nonresident of this state of any motor vehicle or trailer
16 used exclusively in transporting persons or property across the
17 boundaries of this state and in intrastate operations incidental
18 thereto when such motor vehicle or trailer is registered and licensed
19 in a foreign state and in respect to the use by a nonresident of this
20 state of any motor vehicle or trailer so registered and licensed and
21 used within this state for a period not exceeding fifteen consecutive
22 days under such rules as the department of revenue shall adopt:
23 PROVIDED, That under circumstances determined to be justifiable by the
24 department of revenue a second fifteen day period may be authorized
25 consecutive with the first fifteen day period; and for the purposes of
26 this exemption the term "nonresident" as used herein, shall include a
27 user who has one or more places of business in this state as well as in
28 one or more other states, but the exemption for nonresidents shall
29 apply only to those vehicles which are most frequently dispatched,
30 garaged, serviced, maintained, and operated from the user's place of
31 business in another state(~~(, and)~~).

32 (3) The provisions of this chapter shall not apply in respect to
33 the use by the holder of a carrier permit issued by the Interstate
34 Commerce Commission or its successor agency of any motor vehicle or
35 trailer whether owned by or leased with or without driver to the permit
36 holder and used in substantial part in the normal and ordinary course
37 of the user's business for transporting therein persons or property for
38 hire across the boundaries of this state; and in respect to the use of

1 any motor vehicle or trailer while being operated under the authority
2 of a one-transit permit issued by the director of licensing pursuant to
3 RCW 46.16.160 and moving upon the highways from the point of delivery
4 in this state to a point outside this state; and in respect to the use
5 of tangible personal property which becomes a component part of any
6 motor vehicle or trailer used by the holder of a carrier permit issued
7 by the Interstate Commerce Commission or its successor agency
8 authorizing transportation by motor vehicle across the boundaries of
9 this state whether such motor vehicle or trailer is owned by or leased
10 with or without driver to the permit holder, in the course of
11 repairing, cleaning, altering, or improving the same; also the use of
12 labor and services rendered in respect to such repairing, cleaning,
13 altering, or improving.

14 **Sec. 4.** RCW 82.12.0255 and 1980 c 37 s 55 are each amended to read
15 as follows:

16 The provisions of this chapter shall not apply in respect to the
17 use of any article of tangible personal property or service which the
18 state is prohibited from taxing under the Constitution of the state or
19 under the Constitution or laws of the United States.

20 **Sec. 5.** RCW 82.12.02565 and 1999 c 211 s 6 are each amended to
21 read as follows:

22 The provisions of this chapter shall not apply in respect to the
23 use by a manufacturer or processor for hire of machinery and equipment
24 used directly in a manufacturing operation or research and development
25 operation ~~((~~or~~))~~ to the use by a person engaged in testing for a
26 manufacturer or processor for hire of machinery and equipment used
27 directly in a testing operation, or to the use of labor and services
28 rendered in respect to installing, repairing, cleaning, altering, or
29 improving the machinery and equipment.

30 **Sec. 6.** RCW 82.12.02567 and 2001 c 213 s 2 are each amended to
31 read as follows:

32 (1) The provisions of this chapter shall not apply with respect to
33 machinery and equipment used directly in generating not less than two
34 hundred watts of electricity using wind, sun, or landfill gas as the

1 principal source of power, or to the use of labor and services rendered
2 in respect to installing such machinery and equipment.

3 (2) The definitions in RCW 82.08.02567 apply to this section.

4 (3) This section expires June 30, 2009.

5 **Sec. 7.** RCW 82.12.0259 and 1980 c 37 s 59 are each amended to read
6 as follows:

7 The provisions of this chapter shall not apply in respect to the
8 use of tangible personal property or the use of services defined in RCW
9 82.04.050(2)(a) by corporations which have been incorporated under any
10 act of the congress of the United States and whose principal purposes
11 are to furnish volunteer aid to members of the armed forces of the
12 United States and also to carry on a system of national and
13 international relief and to apply the same in mitigating the sufferings
14 caused by pestilence, famine, fire, flood, and other national
15 calamities and to devise and carry on measures for preventing the same.

16 **Sec. 8.** RCW 82.12.0277 and 2001 c 75 s 2 are each amended to read
17 as follows:

18 The provisions of this chapter shall not apply in respect to the
19 use of insulin; prosthetic devices and the components thereof; dental
20 appliances, devices, restorations, and substitutes, and the components
21 thereof, including but not limited to full and partial dentures,
22 crowns, inlays, fillings, braces, and retainers; orthotic devices
23 prescribed for an individual by a person licensed under chapters 18.22,
24 18.25, 18.57, or 18.71 RCW; hearing instruments dispensed or fitted by
25 a person licensed or certified under chapter 18.35 RCW, and the
26 components thereof; medicines of mineral, animal, and botanical origin
27 prescribed, administered, dispensed, or used in the treatment of an
28 individual by a person licensed under chapter 18.36A RCW; ostomic
29 items; and medically prescribed oxygen, including, but not limited to,
30 oxygen concentrator systems, oxygen enricher systems, liquid oxygen
31 systems, and gaseous, bottled oxygen systems prescribed for an
32 individual by a person licensed under chapter 18.57 or 18.71 RCW for
33 use in the medical treatment of that individual. In addition, the
34 provisions of this chapter shall not apply in respect to the use of
35 labor and services rendered in respect to the repairing, cleaning,
36 altering, or improving of any of the items exempted under this section.

1 **Sec. 9.** RCW 82.12.0279 and 1980 c 37 s 77 are each amended to read
2 as follows:

3 The provisions of this chapter shall not apply in respect to the
4 use of ferry vessels of the state of Washington or of local
5 governmental units in the state of Washington in transporting
6 pedestrian or vehicular traffic within and outside the territorial
7 waters of the state (~~and~~), in respect to the use of tangible personal
8 property which becomes a component part of any such ferry vessel, and
9 in respect to the use of labor and services rendered in respect to
10 improving such ferry vessels.

11 **Sec. 10.** RCW 82.12.0315 and 1995 2nd sp.s. c 5 s 2 are each
12 amended to read as follows:

13 (1) The provisions of this chapter shall not apply in respect to
14 the use of:

15 (a) Production equipment rented to a motion picture or video
16 production business;

17 (b) Production equipment acquired and used by a motion picture or
18 video production business in another state, if the acquisition and use
19 occurred more than ninety days before the time the motion picture or
20 video production business entered this state; and

21 (c) Production services that are within the scope of RCW
22 82.04.050(2)(a) and are sold to a motion picture or video production
23 business.

24 (2) As used in this section, "production equipment," "production
25 services," and "motion picture or video production business" have the
26 meanings given in RCW 82.08.0315.

27 (3) The exemption provided for in this section shall not apply to
28 the use of production equipment rented to, or production equipment or
29 production services that are within the scope of RCW 82.04.050(2)(a)
30 acquired and used by, a motion picture or video production business
31 that is engaged, to any degree, in the production of erotic material,
32 as defined in RCW 9.68.050.

33 **Sec. 11.** RCW 82.12.02595 and 1998 c 182 s 1 are each amended to
34 read as follows:

35 (1) This chapter does not apply to the use by a nonprofit
36 charitable organization or state or local governmental entity of any

1 item of tangible personal property that has been donated to the
2 nonprofit charitable organization or state or local governmental
3 entity, or to the subsequent use of the property by a person to whom
4 the property is donated or bailed in furtherance of the purpose for
5 which the property was originally donated.

6 (2) This chapter does not apply to the donation of tangible
7 personal property without intervening use to a nonprofit charitable
8 organization, or to the incorporation of tangible personal property
9 without intervening use into real or personal property of or for a
10 nonprofit charitable organization in the course of installing,
11 repairing, cleaning, altering, imprinting, improving, constructing, or
12 decorating the real or personal property for no charge.

13 (3) This chapter does not apply to the use by a nonprofit
14 charitable organization of labor and services rendered in respect to
15 installing, repairing, cleaning, altering, imprinting, or improving
16 personal property provided to the charitable organization at no charge,
17 or to the donation of such services.

18 **Sec. 12.** RCW 82.12.810 and 1997 c 368 s 3 are each amended to read
19 as follows:

20 (1) For the purposes of this section, "air pollution control
21 facilities" mean any treatment works, control devices and disposal
22 systems, machinery, equipment, structures, property, property
23 improvements, and accessories, that are installed or acquired for the
24 primary purpose of reducing, controlling, or disposing of industrial
25 waste that, if released to the outdoor atmosphere, could cause air
26 pollution, or that are required to meet regulatory requirements
27 applicable to their construction, installation, or operation.

28 (2) The provisions of this chapter do not apply in respect to:

29 (a) The use of air pollution control facilities installed and used
30 by a light and power business, as defined in RCW 82.16.010, in
31 generating electric power; or

32 (b) The use of labor and services performed in respect to the
33 installing of air pollution control facilities.

34 (3) The exemption provided under this section applies only to air
35 pollution control facilities that are:

36 (a) Constructed or installed after May 15, 1997, and used in a

1 thermal electric generation facility placed in operation after December
2 31, 1969, and before July 1, 1975; and

3 (b) Constructed or installed to meet applicable regulatory
4 requirements established under state or federal law, including the
5 Washington clean air act, chapter 70.94 RCW.

6 (4) This section does not apply to the use of tangible personal
7 property for maintenance or repairs of the pollution control equipment
8 or to labor and services performed in respect to such maintenance or
9 repairs.

10 (5) If production of electricity at a thermal electric generation
11 facility for any calendar year after 2002 and before 2023 falls below
12 a twenty percent annual capacity factor for the generation facility,
13 all or a portion of the tax previously exempted under this section in
14 respect to construction or installation of air pollution control
15 facilities at the generation facility shall be due according to the
16 schedule provided in RCW 82.08.810(5).

17 (6) RCW 82.32.393 applies to this section.

18 **Sec. 13.** RCW 82.12.820 and 2000 c 103 s 9 are each amended to read
19 as follows:

20 (1) Wholesalers or third-party warehouseers 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 and for grain elevators with bushel capacity of two million or
3 more, the remittance is equal to one hundred percent of the amount of
4 tax paid for qualifying construction materials, and fifty percent of
5 the amount of tax paid for qualifying material-handling equipment and
6 racking 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, if applicable; and construction
18 invoices and documents.

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

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

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

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

1 **Sec. 14.** RCW 82.12.840 and 2000 c 40 s 3 are each amended to read
2 as follows:

3 (1) The provisions of this chapter do not apply in respect to the
4 use of machinery and equipment, and to services rendered in respect to
5 installing, repairing, cleaning, altering, or improving of eligible
6 machinery and equipment, or tangible personal property that becomes an
7 ingredient or component of eligible machinery and equipment used more
8 than half of the time:

9 (a) For gathering, densifying, processing, handling, storing,
10 transporting, or incorporating straw or straw-based products that will
11 result in a reduction in field burning of cereal grains and field and
12 turf grass grown for seed; or

13 (b) To decrease air emissions resulting from field burning of
14 cereal grains and field and turf grass grown for seed.

15 (2) A person taking the exemption under this section must keep
16 records necessary for the department to verify eligibility under this
17 section.

18 (3) The department of ecology shall provide the department with the
19 information necessary for the department to administer this section.

20 (4) This section expires January 1, 2006.

21 **Sec. 15.** RCW 82.12.890 and 2001 2nd sp.s. c 18 s 3 are each
22 amended to read as follows:

23 The provisions of this chapter do not apply with respect to the use
24 by an eligible person of tangible personal property that becomes an
25 ingredient or component of dairy nutrient management equipment and
26 facilities, as defined in RCW 82.08.890, or to labor and services
27 rendered in respect to repairing, cleaning, altering, or improving
28 eligible tangible personal property. The equipment and facilities must
29 be used exclusively for activities necessary to maintain a dairy
30 management plan as required under chapter 90.64 RCW. This exemption
31 applies to the use of tangible personal property or labor and services
32 made after the dairy nutrient management plan is certified under
33 chapter 90.64 RCW. The exemption certificate and recordkeeping
34 requirements of RCW 82.08.890 apply to this section.

35 **Sec. 16.** RCW 82.12.900 and 2001 2nd sp.s. c 18 s 5 are each
36 amended to read as follows:

1 The provisions of this chapter do not apply with respect to the use
2 of anaerobic digesters (~~(or)~~), tangible personal property that becomes
3 an ingredient or component of anaerobic digesters (~~(to treat primarily~~
4 ~~dairy manure)~~), or the use of services rendered in respect to
5 installing, repairing, cleaning, altering, or improving eligible
6 tangible personal property by an eligible person establishing or
7 operating an anaerobic digester, as defined in RCW 82.08.900. The
8 anaerobic digester must be used primarily to treat dairy manure.

9 NEW SECTION. Sec. 17. A new section is added to chapter 82.12 RCW
10 to read as follows:

11 The provisions of this chapter do not apply with respect to the use
12 by municipal corporations, the state, and all political subdivisions
13 thereof of tangible personal property consumed and/or of labor and
14 services as defined in RCW 82.04.050(2)(a) rendered in respect to
15 contracts for watershed protection and/or flood prevention. This
16 exemption is limited to that portion of the selling price that is
17 reimbursed by the United States government according to the provisions
18 of the watershed protection and flood prevention act (68 Stat. 666; 16
19 U.S.C. Sec. 101 et seq.).

20 **Sec. 18.** RCW 82.12.0251 and 1997 c 301 s 1 are each amended to
21 read as follows:

22 The provisions of this chapter shall not apply in respect to the
23 use:

24 (1) Of any article of tangible personal property, and services that
25 were rendered in respect to such property, brought into the state of
26 Washington by a nonresident thereof for his or her use or enjoyment
27 while temporarily within the state of Washington unless such property
28 is used in conducting a nontransitory business activity within the
29 state of Washington; (~~or in respect to the use~~)

30 (2) By a nonresident of Washington of a motor vehicle or trailer
31 which is registered or licensed under the laws of the state of his or
32 her residence, and which is not required to be registered or licensed
33 under the laws of Washington, including motor vehicles or trailers
34 exempt pursuant to a declaration issued by the department of licensing
35 under RCW 46.85.060, and services rendered outside the state of
36 Washington in respect to such property; (~~or in respect to the use~~)

1 (3) Of household goods, personal effects, and private motor
2 vehicles, ((not including motor homes)) and services rendered in
3 respect to such property, by a bona fide resident of Washington, or
4 nonresident members of the armed forces who are stationed in Washington
5 pursuant to military orders, if such articles and services were
6 acquired and used by such person in another state while a bona fide
7 resident thereof and such acquisition and use occurred more than ninety
8 days prior to the time he or she entered Washington. For purposes of
9 this subsection, private motor vehicles does not include motor homes.

10 (4) For purposes of this section, "state" means a state of the
11 United States, any political subdivision thereof, the District of
12 Columbia, and any foreign country or political subdivision thereof, and
13 "services" means services defined as retail sales in RCW
14 82.04.050(2)(a).

15 NEW SECTION. Sec. 19. RCW 82.12.0252 (Exemptions--Use of tangible
16 personal property upon which tax has been paid--Use of tangible
17 personal property acquired by a previous bailee from same bailor before
18 June 9, 1961) and 1980 c 37 s 52 are each repealed.

19 NEW SECTION. Sec. 20. The legislature finds that in the enactment
20 of chapter 367, Laws of 2002, some use tax exemptions were not updated
21 to reflect the change in taxability regarding services. It is the
22 legislature's intent to correct this omission by amending the various
23 use tax exemptions so that services exempt from the sales tax are also
24 exempt from the use tax. Sections 1 through 19 of this act apply
25 retroactively to June 1, 2002. The department of revenue shall refund
26 any use taxes paid and forgive use taxes unpaid as a result of the
27 omission.

28 NEW SECTION. Sec. 21. This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately.

Passed by the House March 13, 2003.

Passed by the Senate March 14, 2003.

Approved by the Governor March 18, 2003.

Filed in Office of Secretary of State March 18, 2003.