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ENGROSSED SUBSTITUTE HOUSE BILL 1865

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State of Washington

59th Legislature

2005 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Kilmer, Woods, Lantz, Appleton, Talcott, Green and Williams)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to sales and use taxes related to the state route  
2 16 corridor improvements project; amending RCW 47.46.060; adding a new  
3 section to chapter 82.08 RCW; and adding a new section to chapter 82.12  
4 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW  
7 to read as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to:

9 (a) Charges made for labor and services rendered by any person in  
10 respect to the building of any street, place, road, highway, easement,  
11 right of way, bridge, tunnel, or trestle which is owned by the state or  
12 by the United States and which is used or to be used primarily for foot  
13 or vehicular traffic; or

14 (b) Sales of tangible personal property that becomes an ingredient  
15 or component of the street, place, road, highway, easement, right of  
16 way, bridge, tunnel, or trestle which is owned by the state or by the  
17 United States and which is used or to be used primarily for foot or  
18 vehicular traffic during the course of the building of such street,

1 place, road, highway, easement, right of way, bridge, tunnel, or  
2 trestle.

3 (2) The exemption provided by this section does not apply:

4 (a) To any project for which a sales and use tax deferral  
5 certificate has been issued by the department under RCW 47.46.060; and

6 (b) Unless at least eighty percent of the cost of the project will  
7 be recovered through tolls or other direct user fees.

8 (3) The buyer must provide the seller with an exemption certificate  
9 in a form and manner prescribed by the department. The seller shall  
10 retain a copy of the certificate for the seller's files.

11 (4) For the purposes of this section, "direct user fee" means a fee  
12 charged for the specific use of the facility.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW  
14 to read as follows:

15 (1) The provisions of this chapter do not apply with respect to the  
16 use of tangible personal property that becomes an ingredient or  
17 component of any street, place, road, highway, easement, right of way,  
18 bridge, tunnel, or trestle which is owned by the state or by the United  
19 States and which is used or to be used primarily for foot or vehicular  
20 traffic during the course of building.

21 (2) The eligibility requirements, conditions, and definitions in  
22 section 1 of this act apply to this section.

23 **Sec. 3.** RCW 47.46.060 and 2002 c 114 s 18 are each amended to read  
24 as follows:

25 (1) Any person, including the department of transportation and any  
26 private entity or entities, may apply for deferral of taxes on the site  
27 preparation for, the construction of, the acquisition of any related  
28 machinery and equipment which will become a part of, and the rental of  
29 equipment for use in the state route number 16 corridor improvements  
30 project under this chapter. Application shall be made to the  
31 department of revenue in a form and manner prescribed by the department  
32 of revenue. The application shall contain information regarding  
33 estimated or actual costs, time schedules for completion and operation,  
34 and other information required by the department of revenue. The  
35 department of revenue shall approve the application within sixty days  
36 if it meets the requirements of this section.

1 (2) The department of revenue shall issue a sales and use tax  
2 deferral certificate for state and local sales and use taxes due under  
3 chapters 82.08, 82.12, and 82.14 RCW on the project.

4 (3) The department of transportation or a private entity granted a  
5 tax deferral under this section shall begin paying the deferred taxes  
6 in the fifth year after the date certified by the department of revenue  
7 as the date on which the project is operationally complete. The first  
8 payment is due on December 31st of the fifth calendar year after such  
9 certified date, with subsequent annual payments due on December 31st of  
10 the following nine years. Each payment shall equal ten percent of the  
11 deferred tax. The project is operationally complete under this section  
12 when the collection of tolls is commenced for the state route number 16  
13 improvements covered by the deferral.

14 (4) The department of revenue may authorize an accelerated  
15 repayment schedule upon request of the department of transportation or  
16 a private entity granted a deferral under this section.

17 (5) Interest shall not be charged on any taxes deferred under this  
18 section for the period of deferral, although all other penalties and  
19 interest applicable to delinquent excise taxes may be assessed and  
20 imposed for delinquent payments under this section. The debt for  
21 deferred taxes is not extinguished by insolvency or other failure of  
22 the private entity. Transfer of ownership does not terminate the  
23 deferral.

24 (6) Applications and any other information received by the  
25 department of revenue under this section are not confidential and are  
26 subject to disclosure. Chapter 82.32 RCW applies to the administration  
27 of this section.

28 (7) Taxes due under chapters 82.08 and 82.12 RCW on the site  
29 preparation for, the construction of, the acquisition of any related  
30 machinery and equipment that will become a part of, and the rental of  
31 equipment for use in the state route number 16 corridor improvements  
32 for which a deferral has been granted need not be repaid.

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