

EHB 1902 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/20/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 82.08.855 and 2006 c 172 s 1 are each amended to read
4 as follows:

5 (1) The tax levied by RCW 82.08.020 does not apply to the sale to
6 an eligible farmer of:

7 (a) Replacement parts for qualifying farm machinery and equipment;

8 (b) Labor and services rendered in respect to the installing of
9 replacement parts; and

10 (c) Labor and services rendered in respect to the repairing of
11 qualifying farm machinery and equipment, provided that during the
12 course of repairing no tangible personal property is installed,
13 incorporated, or placed in, or becomes an ingredient or component of,
14 the qualifying farm machinery and equipment other than replacement
15 parts.

16 (2)(a) Notwithstanding anything to the contrary in this chapter, if
17 (~~replacement parts are installed by the seller during the course of~~
18 ~~repairing, cleaning, altering, or improving qualifying farm machinery~~
19 ~~and equipment and the seller makes a separate charge for the parts, the~~
20 ~~tax levied by RCW 82.08.020 does not apply to the separately stated~~
21 ~~charge to an eligible farmer for replacement parts but only if the~~
22 ~~separately stated charge does not exceed either the seller's current~~
23 ~~publicly stated retail price for the parts or, if no separately stated~~
24 ~~retail price is available, the seller's cost for the parts. However,~~
25 ~~the exemption provided by this section shall not apply if replacement~~
26 ~~parts are installed by the seller during the course of repairing,~~
27 ~~cleaning, altering, or improving qualifying farm machinery and~~
28 ~~equipment and the seller makes a single nonitemized charge for~~
29 ~~providing the parts and service)) a single transaction involves
30 services that are not exempt under this section and services that would~~

1 be exempt under this section if provided separately, the exemptions
2 provided in subsection (1)(b) and (c) of this section apply if: (i)
3 The seller makes a separately itemized charge for labor and services
4 described in subsection (1)(b) or (c) of this section; and (ii) the
5 separately itemized charge does not exceed the seller's usual and
6 customary charge for such services.

7 (b) If the requirements in (a)(i) and (ii) of this subsection (2)
8 are met, the exemption provided in subsection (1)(b) or (c) of this
9 section applies to the separately itemized charge for labor and
10 services described in subsection (1)(b) or (c) of this section.

11 (3)(a) A person claiming an exemption under this section must keep
12 records necessary for the department to verify eligibility under this
13 section. An exemption is available only when the buyer provides the
14 seller with an exemption certificate issued by the department
15 containing such information as the department requires. The exemption
16 certificate shall be in a form and manner prescribed by the department.
17 The seller shall retain a copy of the certificate for the seller's
18 files.

19 (b) The department shall provide an exemption certificate to an
20 eligible farmer or renew an exemption certificate, upon application by
21 that eligible farmer. The application must be in a form and manner
22 prescribed by the department and shall contain the following
23 information as required by the department:

24 (i) The name and address of the applicant;

25 (ii) The uniform business identifier or tax reporting account
26 number of the applicant, if the applicant is required to be registered
27 with the department;

28 (iii) The type of farming engaged in;

29 (iv) Either a copy of the applicant's information as provided in
30 (b)(iv)(A) of this subsection or a declaration as provided in
31 (b)(iv)(B) of this subsection, as elected by the applicant:

32 (A) A copy of the applicant's Schedule F of Form 1040, Form 1120,
33 or other applicable form filed with the internal revenue service
34 indicating the applicant's gross sales or harvested value of
35 agricultural products ((by the applicant in the calendar)) for the tax
36 year ((immediately preceding the year that the application was made to
37 the department)) covered by the return. If ((application is made
38 before the due date of the applicant's)) the applicant has not filed a

1 federal income tax return for the prior (~~calendar~~) tax year(~~(7)~~) or
2 (~~any extension of the due date~~) is not required to file a federal
3 income tax return, the applicant shall provide (~~a copy of the~~
4 ~~appropriate federal income tax form that was due for the second~~
5 ~~calendar year immediately preceding the year that the application is~~
6 ~~made to the department. If the applicant is not required to file~~
7 ~~federal income tax returns, the department may require the applicant to~~
8 ~~provide copies of other documents establishing the amount of the~~
9 ~~applicant's gross sales of agricultural products for the relevant~~
10 ~~calendar year~~) copies of other documents establishing the amount of
11 the applicant's gross sales or harvested value of agricultural products
12 for the tax year immediately preceding the year in which an application
13 for exemption under this section is submitted to the department;

14 (B) A declaration signed under penalty of perjury as provided in
15 RCW 9A.72.085 that the applicant is an eligible farmer as defined in
16 subsection (4)(b) of this section. Any person who knowingly makes a
17 materially false statement on an application submitted to the
18 department under the provisions of this section shall be guilty of
19 perjury in the second degree under chapter 9A.72 RCW. In addition, the
20 person is liable for payment of any taxes for which an exemption under
21 this section was claimed, with interest at the rate provided for
22 delinquent taxes, retroactively to the date the exemption was claimed,
23 and penalties as provided under chapter 82.32 RCW;

24 (v) The name of the individual authorized to sign the certificate,
25 printed in a legible fashion;

26 (vi) The signature of the authorized individual; and

27 (vii) Other information the department may require to verify the
28 applicant's eligibility for the exemption.

29 (c)(i) Except as otherwise provided in this section, exemption
30 certificates take effect on the date issued by the department are not
31 transferable and are valid for the remainder of the calendar year in
32 which the certificate is issued and the following four calendar years.
33 The department shall attempt to notify holders of exemption
34 certificates of the impending expiration of the certificate at least
35 sixty days before the certificate expires and shall provide an
36 application for renewal of the certificate.

37 (ii) When a certificate holder merely changes identity or form of

1 ownership of an entity and there is no change in beneficial ownership,
2 the exemption certificate shall be transferred to the new entity upon
3 written notice to the department by the transferor or transferee.

4 ~~(d)(i) ((Exemption certificates issued to persons who are eligible~~
5 ~~farmers under subsection (4)(b)(iii) of this section are conditioned on~~
6 ~~the person making at least ten thousand dollars of gross sales of~~
7 ~~agricultural products grown, raised, or produced by that person in the~~
8 ~~first full calendar year that the person engages in business as a~~
9 ~~farmer))~~ A person who is an eligible farmer as defined in subsection
10 (4)(b)(iii) of this section shall be issued a conditional exemption
11 certificate. The exemption certificate is conditioned upon:

12 (A) The eligible farmer having gross sales or a harvested value of
13 agricultural products grown, raised, or produced by that person of at
14 least ten thousand dollars in the first full tax year in which the
15 person engages in business as a farmer; or

16 (B) The eligible farmer, during the first full tax year in which
17 that person engages in business as a farmer, growing, raising, or
18 producing agricultural products having an estimated value at any time
19 during that year of at least ten thousand dollars, if the person will
20 not sell or harvest an agricultural product during the first full tax
21 year in which the person engages in business as a farmer.

22 ~~(ii) ((A person who is issued a conditional exemption certificate~~
23 ~~must provide the department with a copy of the person's Schedule F of~~
24 ~~Form 1040, Form 1120, or other applicable form filed with the internal~~
25 ~~revenue service indicating the gross sales of agricultural products by~~
26 ~~the person in the first full calendar year that the person engaged in~~
27 ~~business as a farmer. If a person is not required to file federal~~
28 ~~income tax returns, the person shall provide copies of other documents~~
29 ~~establishing the amount of the person's gross sales of agricultural~~
30 ~~products for the first full calendar year that the person engaged in~~
31 ~~business as a farmer. The documentation required in this subsection~~
32 ~~(3)(d)(ii) is due no later than December 31st of the year immediately~~
33 ~~following the first full calendar year in which the person engaged in~~
34 ~~business as a farmer.~~

35 ~~(iii))~~ If a person fails to ~~((provide the required documentation~~
36 ~~to the department by the due date or any extension granted by the~~
37 ~~department, or if))~~ meet the condition provided in (d)(i)(A) or (B) of
38 this subsection ~~((is not met))~~, the department shall revoke the

1 exemption certificate. The department shall notify the person in
2 writing of the revocation and the person's responsibility, and due
3 date, for ~~((repayment))~~ payment of any taxes for which an exemption
4 under this section was claimed. Any taxes for which an exemption under
5 this section was claimed shall be due and payable within thirty days of
6 the date of the notice revoking the certificate. The department shall
7 assess interest on the taxes for which the exemption was claimed.
8 Interest shall be assessed at the rate provided for delinquent excise
9 taxes under chapter 82.32 RCW, retroactively to the date the exemption
10 was claimed, and shall accrue until the taxes for which the exemption
11 was claimed are ~~((repaid))~~ paid. Penalties shall not be imposed on any
12 tax required to be ~~((repaid))~~ paid under this subsection (3)(d)(ii) if
13 full payment is received by the due date. Nothing in this subsection
14 (3)(d) prohibits a person from reapplying for an exemption certificate.

15 (4) The definitions in this subsection apply to this section.

16 (a) "Agricultural products" has the meaning provided in RCW
17 82.04.213.

18 (b) "Eligible farmer" means:

19 (i) A farmer as defined in RCW 82.04.213 whose gross ~~((proceeds~~
20 ~~of))~~ sales or harvested value of agricultural products grown, raised,
21 or produced by that person is at least ten thousand dollars ~~((in))~~ for
22 ~~the ((calendar)) tax year immediately preceding the year in which ((a~~
23 ~~claim of exemption is made under this section))~~ an application for
24 exemption under this section is submitted to the department;

25 (ii) The transferee of an exemption certificate under subsection
26 (3)(c)(ii) of this section where the transferred certificate expires
27 before the transferee engages in farming operations for a full
28 ~~((calendar)) tax year, if the combined gross ((proceeds of)) sales~~
29 ~~((by))~~ or harvested value of agricultural products that the transferor
30 and transferee ~~((of agricultural products that they))~~ have grown,
31 raised, or produced meet the requirements of (b)(i) of this subsection;

32 (iii) A farmer as defined in RCW 82.04.213, who does not meet the
33 definition of "eligible farmer" in (b)(i) or (ii) of this subsection,
34 and who did not engage in farming for the entire ~~((calendar)) tax year~~
35 immediately preceding the year in which application for exemption under
36 this section is ~~((made and who did not engage in farming in any other~~
37 ~~year))~~ submitted to the department, because the farmer is either new to
38 farming or newly returned to farming; or

1 (iv) Anyone who otherwise meets the definition of "eligible farmer"
2 in this subsection except that they are not a "person" as defined in
3 RCW 82.04.030.

4 (c) "Farm vehicle" has the same meaning as in RCW 46.04.181.

5 (d) "Harvested value" means the number of units of the agricultural
6 product that were grown, raised, or produced, multiplied by the average
7 sales price of the agricultural product. For purposes of this
8 subsection (4)(d), "average sales price" means the average price per
9 unit of agricultural product received by farmers in this state as
10 reported by the United States department of agriculture's national
11 agricultural statistics service for the twelve-month period that
12 coincides with, or that ends closest to, the end of the relevant tax
13 year, regardless of whether the prices are subject to revision. If the
14 price per unit of an agricultural product received by farmers in this
15 state is not available from the national agricultural statistics
16 service, average sales price may be determined by using the average
17 price per unit of agricultural product received by farmers in this
18 state as reported by a recognized authority for the agricultural
19 product.

20 (e) "Qualifying farm machinery and equipment" means machinery and
21 equipment used primarily by an eligible farmer for growing, raising, or
22 producing agricultural products. "Qualifying farm machinery and
23 equipment" does not include:

24 (i) ~~((Farm vehicles and other))~~ Vehicles as ((those terms are
25 defined in chapter 46.04 RCW, except)) defined in RCW 46.04.670, other
26 than farm tractors as defined in RCW 46.04.180, farm vehicles, and
27 other farm implements. For purposes of this subsection
28 (4)((+e))(e)(i), "farm implement" means machinery or equipment
29 manufactured, designed, or reconstructed for agricultural purposes and
30 used primarily by an eligible farmer to grow, raise, or produce
31 agricultural products, but does not include lawn tractors and
32 all-terrain vehicles;

33 (ii) Aircraft;

34 (iii) Hand tools and hand-powered tools; and

35 (iv) Property with a useful life of less than one year.

36 ~~((+d))~~ (f)(i) "Replacement parts" means those parts that replace
37 an existing part, or which are essential to maintain the working

1 condition, of a piece of qualifying farm machinery or equipment.
2 (~~However, "replacement parts" shall not include paint, fuel, oil,~~
3 ~~grease, hydraulic fluids, antifreeze, and similar items~~))

4 (ii) Paint, fuel, oil, hydraulic fluids, antifreeze, and similar
5 items are not replacement parts except when installed, incorporated, or
6 placed in qualifying farm machinery and equipment during the course of
7 installing replacement parts as defined in (f)(i) of this subsection or
8 making repairs as described in subsection (1)(c) of this section.

9 (g) "Tax year" means the period for which a person files its
10 federal income tax return, irrespective of whether the period
11 represents a calendar year, fiscal year, or some other consecutive
12 twelve-month period. If a person is not required to file a federal
13 income tax return, "tax year" means a calendar year.

14 **Sec. 2.** RCW 82.12.855 and 2006 c 172 s 2 are each amended to read
15 as follows:

16 (1) The provisions of this chapter do not apply in respect to the
17 use by an eligible farmer of:

18 (a) Replacement parts for qualifying farm machinery and equipment;

19 (b) Labor and services rendered in respect to the installing of
20 replacement parts; and

21 (c) Labor and services rendered in respect to the repairing of
22 qualifying farm machinery and equipment, provided that during the
23 course of repairing no tangible personal property is installed,
24 incorporated, or placed in, or becomes a component of, the qualifying
25 farm machinery and equipment other than replacement parts.

26 (2)(a) Notwithstanding anything to the contrary in this chapter, if
27 (~~replacement parts are installed by the seller during the course of~~
28 ~~repairing, cleaning, altering, or improving qualifying farm machinery~~
29 ~~and equipment and the seller makes a separate charge for the parts, the~~
30 ~~tax imposed by this chapter does not apply to the separately stated~~
31 ~~charge to an eligible farmer for replacement parts but only if the~~
32 ~~separately stated charge does not exceed either the seller's current~~
33 ~~publicly stated retail price for the parts or, if no separately stated~~
34 ~~retail price is available, the seller's cost for the parts. However,~~
35 ~~the exemption provided by this section shall not apply if replacement~~
36 ~~parts are installed by the seller during the course of repairing,~~
37 ~~cleaning, altering, or improving qualifying farm machinery and~~

1 ~~equipment and the seller makes a single nonitemized charge for~~
2 ~~providing the parts and service)) a single transaction involves~~
3 ~~services that are not exempt under this section and services that would~~
4 ~~be exempt under this section if provided separately, the exemptions~~
5 ~~provided in subsection (1)(b) and (c) of this section apply if: (i)~~
6 ~~The seller makes a separately itemized charge for labor and services~~
7 ~~described in subsection (1)(b) or (c) of this section; and (ii) the~~
8 ~~separately itemized charge does not exceed the seller's usual and~~
9 ~~customary charge for such services.~~

10 (b) If the requirements in (a)(i) and (ii) of this subsection (2)
11 are met, the exemption provided in subsection (1)(b) or (c) of this
12 section applies to the separately itemized charge for labor and
13 services described in subsection (1)(b) or (c) of this section.

14 (3) The definitions and recordkeeping requirements in RCW
15 82.08.855, other than the exemption certificate requirement, apply to
16 this section.

17 (4) If a person is an eligible farmer as defined in RCW
18 82.08.855(4)(b)(iii) who cannot prove income because the person is new
19 to farming or newly returned to farming, the exemption under this
20 section will apply only if one of the conditions in RCW
21 82.08.855(3)(d)(i)(A) or (B) is met. If the conditions are not met,
22 any taxes for which an exemption under this section was claimed and
23 interest on such taxes must be paid. Amounts due under this subsection
24 shall be in accordance with RCW 82.08.855(3)(d)(ii), except that the
25 due date for payment is January 31st of the year immediately following
26 the first full tax year in which the person engaged in business as a
27 farmer.

28 (5) Except as provided in subsection (4) of this section, the
29 department shall not assess the tax imposed under this chapter against
30 a person who no longer qualifies as an eligible farmer with respect to
31 the use of any articles or services exempt under subsection (1) of this
32 section, if the person was an eligible farmer when the person first put
33 the articles or services to use in this state."

ADOPTED 04/20/2007

1 On page 1, line 2 of the title, after "equipment;" strike the
2 remainder of the title and insert "amending RCW 82.08.855 and
3 82.12.855; and prescribing penalties."

EFFECT: If a seller makes a separately itemized charge for labor and services, exempt services will qualify, even if provided in a single transaction with nonexempt services. Makes technical corrections to the federal income tax documentation requirements. Allows a declaration under perjury as an alternative proof of income. Clarifies the conditional exemption certificate process for persons new to farming that do not have proof of past income. Changes "calendar year" to "tax year" to allow persons filing on different calendar periods to qualify. Provides other technical corrections and clarifications.

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