

HOUSE BILL REPORT

SB 5909

As Passed House:

April 14, 2009

Title: An act relating to clarifying the application of the high technology retail sales and use tax deferral provided by chapter 82.63 RCW.

Brief Description: Clarifying that multiple qualified buildings are eligible for the high technology retail sales and use tax deferral.

Sponsors: Senators Murray, Kohl-Welles and Zarelli.

Brief History:

Committee Activity:

Finance: 3/17/09, 3/26/09 [DP].

Floor Activity

Passed House: 4/14/09, 96-1.

Brief Summary of Bill

- Establishes that "multiple qualified buildings" are eligible for the high technology research and development sales and use tax deferral.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

Staff: Joseph Archuleta (786-7192)

Background:

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax is levied at a 6.5 percent rate by the state. Cities and counties may levy a local tax rate up to a maximum of 3.1 percent; currently, local rates levied range from 0.5 percent to 2.4 percent. Sales tax is paid by the purchaser and collected by the seller.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The use tax is imposed on items used in the state which were not subject to the sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax.

The high technology research and development sales and use tax deferral is allowed for the construction of buildings and acquisition of machinery and equipment for projects involving research and development or pilot scale manufacturing. To qualify, the firm must be engaged in one of five areas related to high technology: advanced computing, advanced materials, biotechnology, electronic device technology, or environmental technology. In addition, an applicant is required to submit an application to the Department of Revenue (DOR) before beginning construction or equipment purchases. The application must include the location of the project, current employment, new employment estimates, estimated wages related to the project, estimated or actual cost data, time schedules for completion and operation, and other information required by the DOR. The deferral may apply to a building that is leased to a qualified high technology business if the owner/lessor agrees to pass on the economic benefit of the deferral to the lessee.

Originally, the sales/use tax liability was deferred for three years followed by a five-year graduated repayment. Since 1995, the repayment requirement has been waived provided program requirements are maintained for seven years after the facility becomes operational. As of September 2007, approximately 560 firms had participated in the program. The statute is currently scheduled to expire on July 1, 2015.

Summary of Bill:

This bill establishes that "multiple qualified buildings" leased to the same person are eligible for the deferral when the structures are located within a five-mile radius and the initiation of construction of each building begins within a 60-month period.

It requires that applications be submitted prior to the construction of each building for an investment project involving multiple qualified buildings.

It allows for shifting of qualified activities within a building or from one building to another and allows the DOR to develop rules to calculate apportionment of construction costs across these multiple buildings. The lessee is responsible for payment of any deferred tax that may become due and payable.

The bill is retroactive and applies to applications received after June 30, 2007.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) If Amazon.com had just purchased one building, they would be eligible for the tax deferral. However, since they have decided to do it in several, smaller buildings, current law would not allow them to continue receiving this deferral. This bill would allow for multiple buildings to be eligible for the tax deferral. This does not have a fiscal impact. The bill currently would expire in 2015 and it is recommended that that sunset be removed.

(Opposed) None.

Persons Testifying: Rich Prem, Amazon.com; and Amber Carter, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.