
SENATE BILL 6215

State of Washington

63rd Legislature

2014 Regular Session

By Senators Mullet, Ericksen, Ranker, Litzow, Chase, and Fain

Read first time 01/17/14. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to clarifying and correcting RCW 82.08.962 and
2 82.12.962 regarding the sales and use tax treatment of machinery and
3 equipment purchases by companies producing pipeline-quality natural gas
4 using landfill gas; amending RCW 82.08.962 and 82.12.962; creating a
5 new section; and declaring an emergency.

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

7 **Sec. 1.** RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each
8 amended to read as follows:

9 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
10 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
11 directly in generating electricity or producing pipeline-quality
12 natural gas, or both, using fuel cells, wind, sun, biomass energy,
13 tidal or wave energy, geothermal resources, anaerobic digestion,
14 technology that converts otherwise lost energy from exhaust, or
15 landfill gas as the principal source of power or pipeline-quality
16 natural gas, or to sales of or charges made for labor and services
17 rendered in respect to installing such machinery and equipment, are
18 eligible for an exemption as provided in this section, but only if the

1 purchaser develops with such machinery, equipment, and labor a facility
2 capable of generating not less than one thousand watts of electricity
3 or producing not less than fifty MMBTU of pipeline-quality natural gas.

4 (b) Beginning on July 1, 2009, through June 30, 2011, the tax
5 levied by RCW 82.08.020 does not apply to the sale of machinery and
6 equipment described in (a) of this subsection that are used directly in
7 generating electricity or to sales of or charges made for labor and
8 services rendered in respect to installing such machinery and
9 equipment.

10 (c) Beginning on July 1, 2007, through June 30, 2011, the tax
11 levied by RCW 82.08.020 does not apply to the sale of machinery and
12 equipment that are used directly in producing pipeline-quality natural
13 gas as described in (a) of this subsection or to sales of or charges
14 made for labor and services rendered in respect to installing such
15 machinery and equipment.

16 (d) Beginning on July 1, 2011, through January 1, 2020, the amount
17 of the exemption under this subsection (1) is equal to seventy-five
18 percent of the state and local sales tax paid. The purchaser is
19 eligible for an exemption under this subsection (1)((+e)) (d) in the
20 form of a remittance.

21 (2) For purposes of this section and RCW 82.12.962, the following
22 definitions apply:

23 (a) "Biomass energy" includes: (i) By-products of pulping and wood
24 manufacturing process; (ii) animal waste; (iii) solid organic fuels
25 from wood; (iv) forest or field residues; (v) wooden demolition or
26 construction debris; (vi) food waste; (vii) liquors derived from algae
27 and other sources; (viii) dedicated energy crops; (ix) biosolids; and
28 (x) yard waste. "Biomass energy" does not include wood pieces that
29 have been treated with chemical preservatives such as creosote,
30 pentachlorophenol, or copper-chrome-arsenic; wood from old growth
31 forests; or municipal solid waste.

32 (b) "Fuel cell" means an electrochemical reaction that generates
33 electricity by combining atoms of hydrogen and oxygen in the presence
34 of a catalyst.

35 (c) "Landfill gas" means biomass fuel, of the type qualified for
36 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal
37 internal revenue code, collected from a "landfill" as defined under RCW
38 70.95.030.

1 (d)(i) "Machinery and equipment" means fixtures, devices, and
2 support facilities that are integral and necessary to the generation of
3 electricity or producing pipeline-quality natural gas, or both, using
4 fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal
5 resources, anaerobic digestion, technology that converts otherwise lost
6 energy from exhaust, or landfill gas as the principal source of power
7 or pipeline-quality natural gas.

8 (ii) "Machinery and equipment" does not include: (A) Hand-powered
9 tools; (B) property with a useful life of less than one year; (C)
10 repair parts required to restore machinery and equipment to normal
11 working order; (D) replacement parts that do not increase productivity,
12 improve efficiency, or extend the useful life of machinery and
13 equipment; (E) buildings; or (F) building fixtures that are not
14 integral and necessary to the generation of electricity that are
15 permanently affixed to and become a physical part of a building.

16 (3)(a) Machinery and equipment is "used directly" in generating
17 electricity by wind energy, solar energy, biomass energy, tidal or wave
18 energy, geothermal resources, anaerobic digestion, technology that
19 converts otherwise lost energy from exhaust, or landfill gas power if
20 it provides any part of the process that captures the energy of the
21 wind, sun, biomass energy, tidal or wave energy, geothermal resources,
22 anaerobic digestion, technology that converts otherwise lost energy
23 from exhaust, or landfill gas, converts that energy to electricity, and
24 stores, transforms, or transmits that electricity for entry into or
25 operation in parallel with electric transmission and distribution
26 systems.

27 (b) Machinery and equipment is "used directly" in generating
28 electricity by fuel cells if it provides any part of the process that
29 captures the energy of the fuel, converts that energy to electricity,
30 and stores, transforms, or transmits that electricity for entry into or
31 operation in parallel with electric transmission and distribution
32 systems.

33 (c) Machinery and equipment is "used directly" in producing
34 pipeline-quality natural gas if it provides any part of the process
35 that captures landfill gas and converts that landfill gas to a level
36 necessary for residential or commercial use.

37 (4)(a) A purchaser claiming an exemption in the form of a
38 remittance under subsection (1)(c) of this section must pay the tax

1 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
2 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
3 may then apply to the department for remittance in a form and manner
4 prescribed by the department. A purchaser may not apply for a
5 remittance under this section more frequently than once per quarter.
6 The purchaser must specify the amount of exempted tax claimed and the
7 qualifying purchases for which the exemption is claimed. The purchaser
8 must retain, in adequate detail, records to enable the department to
9 determine whether the purchaser is entitled to an exemption under this
10 section, including: Invoices; proof of tax paid; and documents
11 describing the machinery and equipment.

12 (b) The department must determine eligibility under this section
13 based on the information provided by the purchaser, which is subject to
14 audit verification by the department. The department must on a
15 quarterly basis remit exempted amounts to qualifying purchasers who
16 submitted applications during the previous quarter.

17 (5) This section expires January 1, 2020.

18 **Sec. 2.** RCW 82.12.962 and 2013 2nd sp.s. c 13 s 1505 are each
19 amended to read as follows:

20 (1)(a) Except as provided in RCW 82.12.963, consumers who have paid
21 the tax imposed by RCW 82.12.020 on machinery and equipment used
22 directly in generating electricity or producing pipeline-quality
23 natural gas, or both, using fuel cells, wind, sun, biomass energy,
24 tidal or wave energy, geothermal resources, anaerobic digestion,
25 technology that converts otherwise lost energy from exhaust, or
26 landfill gas as the principal source of power or pipeline-quality
27 natural gas, or to sales of or charges made for labor and services
28 rendered in respect to installing such machinery and equipment, are
29 eligible for an exemption as provided in this section, but only if the
30 purchaser develops with such machinery, equipment, and labor a facility
31 capable of generating not less than one thousand watts of electricity
32 or producing not less than fifty MMBTU of pipeline-quality natural gas.

33 (b) Beginning on July 1, 2009, through June 30, 2011, the
34 provisions of this chapter do not apply in respect to the use of
35 machinery and equipment described in (a) of this subsection that are
36 used directly in generating electricity or to sales of or charges made

1 for labor and services rendered in respect to installing such machinery
2 and equipment.

3 (c) Beginning on July 1, 2007, through June 30, 2011, the
4 provisions of this chapter do not apply in respect to sales of
5 machinery and equipment that are used directly in producing
6 pipeline-quality natural gas as described in (a) of this subsection or
7 to sales of or charges made for labor and services rendered in respect
8 to installing such machinery and equipment.

9 (d) Beginning on July 1, 2011, through January 1, 2020, the amount
10 of the exemption under this subsection (1) is equal to seventy-five
11 percent of the state and local sales tax paid. The consumer is
12 eligible for an exemption under this subsection (1)((+e)) (d) in the
13 form of a remittance.

14 (2)(a) A person claiming an exemption in the form of a remittance
15 under subsection (1)((+e)) (d) of this section must pay the tax
16 imposed by RCW 82.12.020 and all applicable local use taxes imposed
17 under the authority of chapters 82.14 and 81.104 RCW. The consumer may
18 then apply to the department for remittance in a form and manner
19 prescribed by the department. A consumer may not apply for a
20 remittance under this section more frequently than once per quarter.
21 The consumer must specify the amount of exempted tax claimed and the
22 qualifying purchases or acquisitions for which the exemption is
23 claimed. The consumer must retain, in adequate detail, records to
24 enable the department to determine whether the consumer is entitled to
25 an exemption under this section, including: Invoices; proof of tax
26 paid; and documents describing the machinery and equipment.

27 (b) The department must determine eligibility under this section
28 based on the information provided by the consumer, which is subject to
29 audit verification by the department. The department must on a
30 quarterly basis remit exempted amounts to qualifying consumers who
31 submitted applications during the previous quarter.

32 (3) Purchases exempt under RCW 82.08.962 are also exempt from the
33 tax imposed under RCW 82.12.020.

34 (4) The definitions in RCW 82.08.962 apply to this section.

35 (5) This section expires January 1, 2020.

36 NEW SECTION. Sec. 3. This act applies retroactively for all
37 purchases made on or after July 1, 2007, through June 30, 2020.

1 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

--- END ---