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**HOUSE BILL 1604**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Corry, Springer, Volz, Leavitt, and Chapman

AN ACT Relating to providing a retroactive business and occupation tax exemption for custom farming; and amending RCW 82.04.758.

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

**Sec.**  RCW 82.04.758 and 2022 c 119 s 1 are each amended to read as follows:

(1) This chapter does not apply to any:

(a) Person performing custom farming services for a farmer, when the person performing the custom farming services is: (i) An eligible farmer; or (ii) at least 50 percent owned by an eligible farmer; or

(b) Person performing farm management services, contract labor services, services provided with respect to animals that are agricultural products, or any combination of these services, for a farmer or for a person performing custom farming services, when the person performing the farm management services, contract labor services, services with respect to animals, or any combination of these services, and the farmer or person performing custom farming services are related.

(2) This section applies retroactively to December 31, 2020, and prospectively.

(3)(a) Persons who paid taxes after December 30, 2020, but before the effective date of this section who would otherwise have been eligible for the tax exemption authorized in this section are entitled to a credit for any taxes paid that would not have been owed had this exemption been authorized.

(b) Any person claiming a credit under this subsection (3) must file a form prescribed by the department that includes the amount of credit claimed, the time period for which the credit is claimed, and any other information required by the department.

(c) The credit must be equal to the amount of taxes paid after December 30, 2020, but prior to the effective date of this section by a person that would have been exempt from taxes if the exemption provided in subsection (1) of this section had been available.

(d) Any unused credits may be carried over for subsequent years until used by the person; however, no refunds may be granted for credits under this section.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Custom farming services" means the performance of specific farming operations through the use of any farm machinery or equipment, farm implement, or draft animal, together with an operator, when: (A) The specific farming operation consists of activities directly related to the growing, raising, or producing of any agricultural product to be sold or consumed by a farmer; and (B) the performance of the specific farming operation is for, and under a contract with, or the direction or supervision of, a farmer. "Custom farming services" does not include the custom application of fertilizers, chemicals, or biologicals, or any services related to the growing, raising, or producing of ((~~marijuana~~)) cannabis.

(ii) For the purposes of this subsection ((~~(2)~~)) (4)(a), "specific farming operation" includes specific planting, cultivating, or harvesting activities, or similar specific farming operations. The term does not include veterinary services as defined in RCW 18.92.010; farrier, boarding, training, or appraisal services; artificial insemination or stud services, or agricultural consulting services; packing or processing of agricultural products; or pumping or other waste disposal services.

(b) "Eligible farmer" means a person who is eligible for an exemption certificate under RCW 82.08.855 at the time that the custom farming services are rendered, regardless of whether the person has applied for an exemption certificate under RCW 82.08.855.

(c) "Farm management services" means the consultative decisions made for the operations of the farm including, but not limited to, determining which crops to plant, the choice and timing of application of fertilizers and chemicals, the horticultural practices to apply, the marketing of crops and livestock, and the care and feeding of animals. "Farm management services" does not include any services related to the growing, raising, or producing of ((~~marijuana~~)) cannabis.

(d) "Related" means having any of the relationships specifically described in section 267(b) (1), (2), and (4) through (13) of the internal revenue code, as amended or renumbered as of January 1, 2007.

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