
SENATE BILL 5409

State of Washington

63rd Legislature

2013 Regular Session

By Senators Ericksen, Ranker, Litzow, Cleveland, Fain, Carrell, and Holmquist Newbry

Read first time 01/29/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to extending the sales and use tax exemption of
2 machinery and equipment that generate electricity from specified
3 sources; amending RCW 82.08.962 and 82.12.962; providing an effective
4 date; providing expiration dates; and declaring an emergency.

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

6 **Sec. 1.** RCW 82.08.962 and 2009 c 469 s 101 are each amended to
7 read as follows:

8 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
9 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
10 directly in generating electricity using fuel cells, wind, sun, biomass
11 energy, tidal or wave energy, geothermal resources, anaerobic
12 digestion, technology that converts otherwise lost energy from exhaust,
13 or landfill gas as the principal source of power, or to sales of or
14 charges made for labor and services rendered in respect to installing
15 such machinery and equipment, are eligible for an exemption as provided
16 in this section, but only if the purchaser develops with such
17 machinery, equipment, and labor a facility capable of generating not
18 less than one thousand watts of electricity.

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

7 (c) Beginning on July 1, 2011, through June 30, (~~2013~~) 2015, the
8 amount of the exemption under this subsection (1) is equal to seventy-
9 five percent of the state and local sales tax paid. The purchaser is
10 eligible for an exemption under this subsection (1)(c) in the form of
11 a remittance.

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

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

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

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

30 (d)(i) "Machinery and equipment" means fixtures, devices, and
31 support facilities that are integral and necessary to the generation of
32 electricity using fuel cells, wind, sun, biomass energy, tidal or wave
33 energy, geothermal resources, anaerobic digestion, technology that
34 converts otherwise lost energy from exhaust, or landfill gas as the
35 principal source of power.

36 (ii) "Machinery and equipment" does not include: (A) Hand-powered
37 tools; (B) property with a useful life of less than one year; (C)
38 repair parts required to restore machinery and equipment to normal

1 working order; (D) replacement parts that do not increase productivity,
2 improve efficiency, or extend the useful life of machinery and
3 equipment; (E) buildings; or (F) building fixtures that are not
4 integral and necessary to the generation of electricity that are
5 permanently affixed to and become a physical part of a building.

6 (3)(a) Machinery and equipment is "used directly" in generating
7 electricity by wind energy, solar energy, biomass energy, tidal or wave
8 energy, geothermal resources, anaerobic digestion, technology that
9 converts otherwise lost energy from exhaust, or landfill gas power if
10 it provides any part of the process that captures the energy of the
11 wind, sun, biomass energy, tidal or wave energy, geothermal resources,
12 anaerobic digestion, technology that converts otherwise lost energy
13 from exhaust, or landfill gas, converts that energy to electricity, and
14 stores, transforms, or transmits that electricity for entry into or
15 operation in parallel with electric transmission and distribution
16 systems.

17 (b) Machinery and equipment is "used directly" in generating
18 electricity by fuel cells if it provides any part of the process that
19 captures the energy of the fuel, converts that energy to electricity,
20 and stores, transforms, or transmits that electricity for entry into or
21 operation in parallel with electric transmission and distribution
22 systems.

23 (4)(a) A purchaser claiming an exemption in the form of a
24 remittance under subsection (1)(c) of this section must pay the tax
25 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
26 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
27 may then apply to the department for remittance in a form and manner
28 prescribed by the department. A purchaser may not apply for a
29 remittance under this section more frequently than once per quarter.
30 The purchaser must specify the amount of exempted tax claimed and the
31 qualifying purchases for which the exemption is claimed. The purchaser
32 must retain, in adequate detail, records to enable the department to
33 determine whether the purchaser is entitled to an exemption under this
34 section, including: Invoices; proof of tax paid; and documents
35 describing the machinery and equipment.

36 (b) The department must determine eligibility under this section
37 based on the information provided by the purchaser, which is subject to

1 audit verification by the department. The department must on a
2 quarterly basis remit exempted amounts to qualifying purchasers who
3 submitted applications during the previous quarter.

4 (5) This section expires July 1, (~~2013~~) 2015.

5 **Sec. 2.** RCW 82.12.962 and 2009 c 469 s 102 are each amended to
6 read as follows:

7 (1)(a) Except as provided in RCW 82.12.963, consumers who have paid
8 the tax imposed by RCW 82.12.020 on machinery and equipment used
9 directly in generating electricity using fuel cells, wind, sun, biomass
10 energy, tidal or wave energy, geothermal resources, anaerobic
11 digestion, technology that converts otherwise lost energy from exhaust,
12 or landfill gas as the principal source of power, or to sales of or
13 charges made for labor and services rendered in respect to installing
14 such machinery and equipment, are eligible for an exemption as provided
15 in this section, but only if the purchaser develops with such
16 machinery, equipment, and labor a facility capable of generating not
17 less than one thousand watts of electricity.

18 (b) Beginning on July 1, 2009, through June 30, 2011, the
19 provisions of this chapter do not apply in respect to the use of
20 machinery and equipment described in (a) of this subsection that are
21 used directly in generating electricity or to sales of or charges made
22 for labor and services rendered in respect to installing such machinery
23 and equipment.

24 (c) Beginning on July 1, 2011, through June 30, (~~2013~~) 2015, the
25 amount of the exemption under this subsection (1) is equal to seventy-
26 five percent of the state and local sales tax paid. The consumer is
27 eligible for an exemption under this subsection (1)(c) in the form of
28 a remittance.

29 (2)(a) A person claiming an exemption in the form of a remittance
30 under subsection (1)(c) of this section must pay the tax imposed by RCW
31 82.12.020 and all applicable local use taxes imposed under the
32 authority of chapters 82.14 and 81.104 RCW. The consumer may then
33 apply to the department for remittance in a form and manner prescribed
34 by the department. A consumer may not apply for a remittance under
35 this section more frequently than once per quarter. The consumer must
36 specify the amount of exempted tax claimed and the qualifying purchases
37 or acquisitions for which the exemption is claimed. The consumer must

1 retain, in adequate detail, records to enable the department to
2 determine whether the consumer is entitled to an exemption under this
3 section, including: Invoices; proof of tax paid; and documents
4 describing the machinery and equipment.

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

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

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

13 (5) This section expires June 30, (~~2013~~) 2015.

14 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 July 1, 2013.

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