
SUBSTITUTE SENATE BILL 5764

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Agriculture & Rural Economic Development
(originally sponsored by Senators Schoesler and Rasmussen)

READ FIRST TIME 02/27/07.

1 AN ACT Relating to making technical and administrative changes to
2 improving the administration of the sales and use tax exemptions for
3 replacement parts for farm machinery and equipment; amending RCW
4 82.08.855 and 82.12.855; and prescribing penalties.

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

6 **Sec. 1.** RCW 82.08.855 and 2006 c 172 s 1 are each amended to read
7 as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to the sale to
9 an eligible farmer of replacement parts for qualifying farm machinery
10 and equipment.

11 (2) Notwithstanding anything to the contrary in this chapter, if
12 replacement parts are installed by the seller during the course of
13 repairing, cleaning, altering, or improving qualifying farm machinery
14 and equipment and the seller makes a separate charge for the parts, the
15 tax levied by RCW 82.08.020 does not apply to the separately stated
16 charge to an eligible farmer for replacement parts but only if the
17 separately stated charge does not exceed either the seller's current
18 publicly stated retail price for the parts or, if no (~~separately~~)
19 publicly stated retail price is available, the seller's cost for the

1 parts. However, the exemption provided by this section shall not apply
2 if replacement parts are installed by the seller during the course of
3 repairing, cleaning, altering, or improving qualifying farm machinery
4 and equipment and the seller makes a single nonitemized charge for
5 providing the parts and service.

6 (3)(a)(i) A person claiming an exemption under this section must
7 keep and make available to the department upon request records
8 necessary ~~((for the department))~~ to verify eligibility under this
9 section. Nothing in (b)(vi) of this subsection may be construed as
10 limiting a person's obligations under this subsection (3)(a)(i).

11 (ii) An exemption is available only when the buyer provides the
12 seller with an exemption certificate issued by the department
13 containing such information as the department requires. The exemption
14 certificate shall be in a form and manner prescribed by the department.
15 The seller shall retain a copy of the certificate for the seller's
16 files.

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

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

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

26 (iii) The type of farming engaged in;

27 (iv) ~~((A copy of the applicant's Schedule F of Form 1040, Form~~
28 ~~1120, or other applicable form filed with the internal revenue service~~
29 ~~indicating the gross sales of agricultural products by the applicant in~~
30 ~~the calendar year immediately preceding the year that the application~~
31 ~~was made to the department. If application is made before the due date~~
32 ~~of the applicant's federal income tax return for the prior calendar~~
33 ~~year, or any extension of the due date, the applicant shall provide a~~
34 ~~copy of the appropriate federal income tax form that was due for the~~
35 ~~second calendar year immediately preceding the year that the~~
36 ~~application is made to the department. If the applicant is not~~
37 ~~required to file federal income tax returns, the department may require~~

1 ~~the applicant to provide copies of other documents establishing the~~
2 ~~amount of the applicant's gross sales of agricultural products for the~~
3 ~~relevant calendar year;~~

4 ~~(v))~~ The name of the individual authorized to sign the
5 certificate, printed in a legible fashion;

6 ~~((vi))~~ (v) The signature of the authorized individual; and

7 ~~((vii) Other information the department may require to verify the~~
8 ~~applicant's eligibility for the exemption))~~

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

19 (c)(i) Except as otherwise provided in this section, exemption
20 certificates take effect on the date issued by the department, are not
21 transferable, and are valid for the remainder of the calendar year in
22 which the certificate is issued and the following four calendar years.
23 The department shall attempt to notify holders of exemption
24 certificates of the impending expiration of the certificate at least
25 sixty days before the certificate expires and shall provide an
26 application for renewal of the certificate.

27 (ii) When a certificate holder merely changes identity or form of
28 ownership of an entity and there is no change in beneficial ownership,
29 the exemption certificate shall be transferred to the new entity upon
30 written notice to the department by the transferor or transferee.

31 ~~(d)(i) ((Exemption certificates issued to persons who are eligible~~
32 ~~farmers under subsection (4)(b)(iii) of this section are conditioned on~~
33 ~~the person making at least ten thousand dollars of gross sales of~~
34 ~~agricultural products grown, raised, or produced by that person in the~~
35 ~~first full calendar year that the person engages in business as a~~
36 ~~farmer.~~

37 ~~(ii) A person who is issued a conditional exemption certificate~~
38 ~~must provide the department with a copy of the person's Schedule F of~~

1 ~~Form 1040, Form 1120, or other applicable form filed with the internal~~
2 ~~revenue service indicating the gross sales of agricultural products by~~
3 ~~the person in the first full calendar year that the person engaged in~~
4 ~~business as a farmer. If a person is not required to file federal~~
5 ~~income tax returns, the person shall provide copies of other documents~~
6 ~~establishing the amount of the person's gross sales of agricultural~~
7 ~~products for the first full calendar year that the person engaged in~~
8 ~~business as a farmer. The documentation required in this subsection~~
9 ~~(3)(d)(ii) is due no later than December 31st of the year immediately~~
10 ~~following the first full calendar year in which the person engaged in~~
11 ~~business as a farmer.~~

12 ~~(iii))~~ A person who is an eligible farmer as defined in subsection
13 (4)(b)(iii) of this section will be issued a conditional exemption
14 certificate. The exemption certificate is conditioned upon:

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

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

25 (ii) If a person fails to ~~((provide the required documentation to~~
26 ~~the department by the due date or any extension granted by the~~
27 ~~department, or if))~~ meet the condition provided in (d)(i) of this
28 subsection ~~((is not met)), the department shall~~ ~~((revoke))~~
29 retroactively cancel the exemption certificate. The department shall
30 notify the person in writing of the ~~((revocation))~~ cancellation and the
31 person's responsibility, and due date, for ~~((repayment))~~ payment of any
32 taxes for which an exemption under this section was claimed. Any taxes
33 for which an exemption under this section was claimed shall be due and
34 payable within thirty days of the date of the notice revoking the
35 certificate. The department shall assess interest on the taxes for
36 which the exemption was claimed. Interest shall be assessed at the
37 rate provided for delinquent excise taxes under chapter 82.32 RCW,
38 retroactively to the date the exemption was claimed, and shall accrue

1 until the taxes for which the exemption was claimed are repaid.
2 Penalties shall not be imposed on any tax required to be ~~((repaid))~~
3 paid under this subsection (3)(d)ii, if full payment is received by
4 the due date. Nothing in this subsection (3)(d) prohibits a person
5 from reapplying for an exemption certificate.

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

7 (a) "Agricultural products" has the meaning provided in RCW
8 82.04.213.

9 (b) "Eligible farmer" means:

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

16 (ii) The transferee of an exemption certificate under subsection
17 (3)(c)(ii) of this section where the transferred certificate expires
18 before the transferee engages in farming operations for a full calendar
19 year, if the combined gross ~~((proceeds of))~~ sales ~~((by))~~ or harvested
20 value of agricultural products that the transferor and transferee ~~((of~~
21 ~~agricultural products that they))~~ have grown, raised, or produced meet
22 the requirements of (b)(i) of this subsection;

23 (iii) A farmer as defined in RCW 82.04.213, who does not meet the
24 definition of "eligible farmer" in (b)(i) or (ii) of this subsection,
25 and who did not engage in farming for the entire calendar year
26 immediately preceding the year in which application for exemption under
27 this section is made and who did not engage in farming in any other
28 year;

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

32 (c) "Harvested value" means the number of units of the agricultural
33 product that were grown, raised, or produced, multiplied by the average
34 sales price of the agricultural product. For purposes of this
35 subsection (4)(c), "average sales price" means the average price per
36 unit of agricultural product received by farmers in this state as
37 reported by the United States department of agriculture's national
38 agricultural statistics service for the twelve-month period that

1 coincides with, or that begins or ends closest to, the calendar year
2 immediately preceding the calendar year during which an application for
3 exemption under this section is submitted to the department or the
4 first full calendar year during which a person engages in business as
5 a farmer, as the case may be, regardless of whether the prices are
6 subject to revision. If the price per unit of an agricultural product
7 received by farmers in this state is not available from the national
8 agricultural statistics service, average sales price may be determined
9 by using the average price per unit of agricultural product received by
10 farmers in this state as reported by a recognized authority for the
11 agricultural product.

12 (d) "Qualifying farm machinery and equipment" means machinery and
13 equipment used primarily by an eligible farmer for growing, raising, or
14 producing agricultural products. "Qualifying farm machinery and
15 equipment" does not include:

16 (i) Farm vehicles and other vehicles as those terms are defined in
17 chapter 46.04 RCW, except farm tractors as defined in RCW 46.04.180 and
18 other farm implements. For purposes of this subsection
19 ~~(4)((e))~~(d)(i), "farm implement" means machinery or equipment
20 manufactured, designed, or reconstructed for agricultural purposes and
21 used primarily by an eligible farmer to grow, raise, or produce
22 agricultural products, but does not include lawn tractors and
23 all-terrain vehicles;

24 (ii) Aircraft;

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

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

27 ~~((d))~~ (e)(i) "Replacement parts" means those parts that replace
28 an existing part, or which are essential to maintain the working
29 condition, of a piece of qualifying farm machinery or equipment.
30 ~~((However,))~~

31 (ii) "Replacement parts" shall not include paint, fuel, oil,
32 grease, hydraulic fluids, antifreeze, and similar items.

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

35 (1) The provisions of this chapter do not apply in respect to the
36 use by an eligible farmer of replacement parts for qualifying farm
37 machinery and equipment.

1 (2) Notwithstanding anything to the contrary in this chapter, if
2 replacement parts are installed by the seller during the course of
3 repairing, cleaning, altering, or improving qualifying farm machinery
4 and equipment and the seller makes a separate charge for the parts, the
5 tax imposed by this chapter does not apply to the separately stated
6 charge to an eligible farmer for replacement parts but only if the
7 separately stated charge does not exceed either the seller's current
8 publicly stated retail price for the parts or, if no (~~separately~~)
9 publicly stated retail price is available, the seller's cost for the
10 parts. However, the exemption provided by this section shall not apply
11 if replacement parts are installed by the seller during the course of
12 repairing, cleaning, altering, or improving qualifying farm machinery
13 and equipment and the seller makes a single nonitemized charge for
14 providing the parts and service.

15 (3) The definitions, other than the definition of "eligible
16 farmer," and recordkeeping requirements in RCW 82.08.855, other than
17 the exemption certificate requirement, apply to this section.

18 (4) For purposes of this section, "eligible farmer" means a
19 taxpayer who is currently eligible for an exemption certificate under
20 RCW 82.08.855, or who is not currently eligible for an exemption
21 certificate under RCW 82.08.855 but was previously eligible for an
22 exemption certificate and the certificate would currently be valid,
23 regardless of whether the taxpayer has applied for an exemption
24 certificate under RCW 82.08.855.

25 (5)(a) If a taxpayer is an eligible farmer under this section
26 because the taxpayer is eligible for an exemption certificate under RCW
27 82.08.855 but that exemption certificate would be subject to the
28 condition in RCW 82.08.855(3)(d), the exemption under this section
29 shall no longer apply if the condition in RCW 82.08.855(3)(d) is not
30 met.

31 (b)(i) Any taxes for which an exemption under this section no
32 longer applies as a result of (a) of this subsection shall be based on
33 the value of the article used or value of the service used at the time
34 of first use in this state. Such taxes are due January 31st of the
35 year immediately following the first full calendar year in which the
36 person engaged in business as a farmer.

37 (ii) The department shall assess interest on the taxes due under
38 this subsection (5)(b). Interest shall be assessed at the rate

1 provided for delinquent excise taxes under chapter 82.32 RCW,
2 retroactively to the date the replacement part or service was first
3 used in this state, and shall accrue until the taxes for which the
4 exemption was claimed are repaid. Penalties shall not be imposed on
5 any tax required to be repaid, if full payment is received by the due
6 date.

7 (6) Except as provided in subsection (5) of this section, the
8 department shall not assess the tax imposed under this chapter against
9 a person who no longer qualifies as an eligible farmer with respect to
10 the use of any articles or services exempt under subsection (1) of this
11 section, if the person was an eligible farmer when the first taxable
12 use of the articles or services in this state occurred.

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