
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5805

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hatfield, Zarelli, Rasmussen, Swecker, Shin and Hargrove)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the sales and use taxation of grain elevators;
2 amending RCW 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.12.820, and
3 82.12.820; providing effective dates; providing expiration dates; and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 82.08.820 and 2006 c 354 s 11 are each amended to read
7 as follows:

8 (1) Wholesalers or third-party warehouseurs who own or operate
9 warehouses (~~(or)~~), grain elevators, or large grain elevator facilities,
10 and retailers who own or operate distribution centers, and who have
11 paid the tax levied by RCW 82.08.020 on:

12 (a) Material-handling and racking equipment(~~(r)~~) or large grain
13 elevator equipment and labor and services rendered in respect to
14 installing, repairing, cleaning, altering, or improving (~~(the)~~) all
15 such equipment; or

16 (b) Construction of a warehouse or grain elevator, or construction,
17 remodeling, repairing, cleaning, altering, or improving of a large
18 grain elevator, including materials, and including service and labor
19 costs,

1 are eligible for an exemption in the form of a remittance. The amount
2 of the remittance is computed under subsection (3) of this section and
3 is based on the state share of sales tax.

4 (2) For purposes of this section and RCW 82.12.820:

5 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

6 (b) "Cold storage warehouse" has the meaning provided in RCW
7 82.74.010;

8 (c) "Construction" means the actual construction of a warehouse
9 (~~(or)~~), grain elevator, or large grain elevator that did not exist
10 before the construction began. "Construction" includes expansion, but
11 in the case of a cold storage warehouse, only if the expansion adds at
12 least twenty-five thousand square feet of additional space to an
13 existing cold storage warehouse, or in the case of a warehouse other
14 than a cold storage warehouse, only if the expansion adds at least two
15 hundred thousand square feet of additional space to an existing
16 warehouse other than a cold storage warehouse, or (~~additional~~) in the
17 case of a grain elevator, only if the expansion adds storage capacity
18 of at least one million bushels to an existing grain elevator.
19 "Construction" does not include renovation, remodeling, or repair;

20 (d) "Department" means the department of revenue;

21 (e) "Distribution center" means a warehouse that is used
22 exclusively by a retailer solely for the storage and distribution of
23 finished goods to retail outlets of the retailer. "Distribution
24 center" does not include a warehouse at which retail sales occur;

25 (f) "Finished goods" means tangible personal property intended for
26 sale by a retailer or wholesaler. "Finished goods" does not include
27 agricultural products stored by wholesalers, third-party warehouses, or
28 retailers if the storage takes place on the land of the person who
29 produced the agricultural product. "Finished goods" does not include
30 logs, minerals, petroleum, gas, or other extracted products stored as
31 raw materials or in bulk;

32 (g) "Grain elevator" means a structure used for storage and
33 handling of grain in bulk;

34 (h) "Large grain elevator" means storage silos, tanks, conveyers
35 and their supports, scale towers, bins, electrical improvements,
36 scales, foundations, rails and rail beds, and other buildings primarily
37 used to handle, store, organize, condition, analyze, or convey grain,
38 oil seeds, and byproducts thereof in bulk. Office space, lunchrooms,

1 restrooms, maintenance buildings, control and computer systems used to
2 operate such facilities, and other space necessary for the operation of
3 the large grain elevator are considered part of the large grain
4 elevator as are loading docks and other such space or structures
5 attached or adjacent to the conveyers, and other necessary devices and
6 structures used to receive, convey, or discharge grain, oil seeds, and
7 byproducts thereof via means of waterborne, rail, highway, or
8 intermodal transport and used for handling of grain, oil seeds, and
9 byproducts thereof. Roads, landscaping, and parking lots are not
10 considered part of the large grain elevator. A storage yard is not a
11 large grain elevator nor is a structure in which manufacturing takes
12 place;

13 ((+h)) (i) "Large grain elevator facility" means one or more
14 contiguous parcels of real property with one or more large grain
15 elevators with a combined capacity of at least three million bushels;

16 (j) "Large grain elevator equipment" means equipment within a large
17 grain elevator facility that is primarily used to handle, store,
18 organize, convey, condition, or analyze grain, oil seeds, and
19 byproducts thereof which is not defined as a large grain elevator. The
20 term includes tangible personal property with a useful life of one year
21 or more that becomes an ingredient or component of the equipment,
22 including repair and replacement parts. The term does not include
23 equipment in offices, lunchrooms, restrooms, and other like space,
24 within a large grain elevator facility, or equipment used for nonlarge
25 grain elevator purposes. "Large grain elevator equipment" includes but
26 is not limited to: Samplers, air compressors, quality analyzing
27 equipment, worker and environmental safety equipment, conditioning
28 equipment used to maintain quality, lifts, positioners, cranes, hoists,
29 mechanical arms, and robots; and forklifts and other off-the-road
30 vehicles that are used to lift or move tangible personal property and
31 that cannot be operated legally on roads and streets;

32 (k) "Material-handling equipment and racking equipment" means
33 equipment in a warehouse or grain elevator that is primarily used to
34 handle, store, organize, convey, package, or repackage finished goods.
35 The term includes tangible personal property with a useful life of one
36 year or more that becomes an ingredient or component of the equipment,
37 including repair and replacement parts. The term does not include
38 equipment in offices, lunchrooms, restrooms, and other like space,

1 within a warehouse or grain elevator, or equipment used for
2 nonwarehousing purposes. "Material-handling equipment" includes but is
3 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
4 place units, cranes, hoists, mechanical arms, and robots; mechanized
5 systems, including containers that are an integral part of the system,
6 whose purpose is to lift or move tangible personal property; and
7 automated handling, storage, and retrieval systems, including computers
8 that control them, whose purpose is to lift or move tangible personal
9 property; and forklifts and other off-the-road vehicles that are used
10 to lift or move tangible personal property and that cannot be operated
11 legally on roads and streets. "Racking equipment" includes, but is not
12 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
13 pallets, and other containers and storage devices that form a necessary
14 part of the storage system;

15 ~~((i))~~ (l) "Person" has the meaning given in RCW 82.04.030;

16 ~~((j))~~ (m) "Retailer" means a person who makes "sales at retail"
17 as defined in chapter 82.04 RCW of tangible personal property;

18 ~~((k))~~ (n) "Square footage" means the product of the two
19 horizontal dimensions of each floor of a specific warehouse. The
20 entire footprint of the warehouse shall be measured in calculating the
21 square footage, including space that juts out from the building profile
22 such as loading docks. "Square footage" does not mean the aggregate of
23 the square footage of more than one warehouse at a location or the
24 aggregate of the square footage of warehouses at more than one
25 location;

26 ~~((l))~~ (o) "Third-party warehouse" means a person taxable under
27 RCW 82.04.280(4);

28 ~~((m))~~ (p) "Warehouse" means an enclosed building or structure in
29 which finished goods are stored. A warehouse building or structure may
30 have more than one storage room and more than one floor. Office space,
31 lunchrooms, restrooms, and other space within the warehouse and
32 necessary for the operation of the warehouse are considered part of the
33 warehouse as are loading docks and other such space attached to the
34 building and used for handling of finished goods. Landscaping and
35 parking lots are not considered part of the warehouse. A storage yard
36 is not a warehouse, nor is a building in which manufacturing takes
37 place; and

1 (~~(n)~~) (q) "Wholesaler" means a person who makes "sales at
2 wholesale" as defined in chapter 82.04 RCW of tangible personal
3 property, but "wholesaler" does not include a person who makes sales
4 exempt under RCW 82.04.330.

5 (3)(a) A person claiming an exemption from state tax in the form of
6 a remittance under this section must pay the tax imposed by RCW
7 82.08.020. The buyer may then apply to the department for remittance
8 of all or part of the tax paid under RCW 82.08.020. For grain
9 elevators with bushel capacity of one million but less than two
10 million, the remittance is equal to fifty percent of the amount of tax
11 paid. For warehouses with square footage of two hundred thousand or
12 more, other than cold storage warehouses, and for grain elevators with
13 bushel capacity of two million or more, the remittance is equal to one
14 hundred percent of the amount of tax paid for qualifying construction,
15 materials, service, and labor, and fifty percent of the amount of tax
16 paid for qualifying material-handling equipment and racking equipment,
17 and labor and services rendered in respect to installing, repairing,
18 cleaning, altering, or improving the equipment. For cold storage
19 warehouses with square footage of twenty-five thousand or more, the
20 remittance is equal to one hundred percent of the amount of tax paid
21 for qualifying construction, materials, service, and labor, and one
22 hundred percent of the amount of tax paid for qualifying material-
23 handling equipment and racking equipment, and labor and services
24 rendered in respect to installing, repairing, cleaning, altering, or
25 improving the equipment. For large grain elevator facilities, the
26 remittance is equal to one hundred percent of the amount of tax paid
27 for qualifying construction, remodeling, repairing, cleaning, altering,
28 or improving, and materials, service, and labor of large grain
29 elevators, and fifty percent of the amount of tax paid for qualifying
30 large grain elevator equipment, and labor and services rendered in
31 respect to installing, repairing, cleaning, altering, or improving the
32 equipment.

33 (b) The department shall determine eligibility under this section
34 based on information provided by the buyer and through audit and other
35 administrative records. The buyer shall on a quarterly basis submit an
36 information sheet, in a form and manner as required by the department
37 by rule, specifying the amount of exempted tax claimed and the
38 qualifying purchases or acquisitions for which the exemption is

1 claimed. The buyer shall retain, in adequate detail to enable the
2 department to determine whether the equipment or construction meets the
3 criteria under this section: Invoices; proof of tax paid; documents
4 describing the material-handling equipment and racking equipment or
5 large grain elevator equipment; location and size of warehouses
6 ~~((and))~~, grain elevators, and large grain elevator facilities; and
7 construction invoices and documents.

8 (c) The department shall on a quarterly basis remit exempted
9 amounts to qualifying persons who submitted applications during the
10 previous quarter.

11 (4) Warehouses, grain elevators, large grain elevators, large grain
12 elevator equipment, and material-handling equipment and racking
13 equipment for which an exemption, credit, or deferral has been or is
14 being received under chapter 82.60, 82.62, or 82.63 RCW or RCW
15 82.08.02565 or 82.12.02565 are not eligible for any remittance under
16 this section. Warehouses ~~((and))~~, grain elevators, and large grain
17 elevators upon which construction was initiated before May 20, 1997,
18 are not eligible for a remittance under this section.

19 (5) The lessor or owner of a warehouse ~~((or))~~, grain elevator, or
20 large grain elevator is not eligible for a remittance under this
21 section unless the underlying ownership of the warehouse ~~((or))~~, grain
22 elevator, or large grain elevator, and the material-handling equipment
23 and racking equipment or large grain elevator equipment vests
24 exclusively in the same person, or unless the lessor by written
25 contract agrees to pass the economic benefit of the remittance to the
26 lessee in the form of reduced rent payments.

27 **Sec. 2.** RCW 82.08.820 and 2006 c 354 s 11 are each amended to read
28 as follows:

29 (1) Wholesalers or third-party warehouse owners who own or operate
30 warehouses or grain elevators and retailers who own or operate
31 distribution centers, and who have paid the tax levied by RCW 82.08.020
32 on:

33 (a) Material-handling and racking equipment, or grain elevator
34 equipment, and labor and services rendered in respect to installing,
35 repairing, cleaning, altering, or improving ~~((the))~~ all such equipment;
36 or

1 (b) Construction of a warehouse, or construction, remodeling,
2 repairing, cleaning, altering, or improving of a grain elevator,
3 including materials, and including service and labor costs,
4 are eligible for an exemption in the form of a remittance. The amount
5 of the remittance is computed under subsection (3) of this section and
6 is based on the state share of sales tax.

7 (2) For purposes of this section and RCW 82.12.820:

8 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

9 (b) "Cold storage warehouse" has the meaning provided in RCW
10 82.74.010;

11 (c) "Construction" means the actual construction of a warehouse or
12 grain elevator that did not exist before the construction began.
13 "Construction" includes expansion, but in the case of a cold storage
14 warehouse, only if the expansion adds at least twenty-five thousand
15 square feet of additional space to an existing cold storage warehouse,
16 or in the case of a warehouse other than a cold storage warehouse, only
17 if the expansion adds at least two hundred thousand square feet of
18 additional space to an existing warehouse other than a cold storage
19 warehouse(~~, or additional storage capacity of at least one million~~
20 ~~bushels to an existing grain elevator)). "Construction" does not~~
21 include renovation, remodeling, or repair;

22 (d) "Department" means the department of revenue;

23 (e) "Distribution center" means a warehouse that is used
24 exclusively by a retailer solely for the storage and distribution of
25 finished goods to retail outlets of the retailer. "Distribution
26 center" does not include a warehouse at which retail sales occur;

27 (f) "Finished goods" means tangible personal property intended for
28 sale by a retailer or wholesaler. "Finished goods" does not include
29 agricultural products stored by wholesalers, third-party warehouses, or
30 retailers if the storage takes place on the land of the person who
31 produced the agricultural product. "Finished goods" does not include
32 logs, minerals, petroleum, gas, or other extracted products stored as
33 raw materials or in bulk;

34 (g) "Grain elevator" means (~~a structure used for storage and~~
35 ~~handling of grain in bulk)) storage silos, tanks, conveyers and their
36 supports, scale towers, bins, electrical improvements, scales,
37 foundations, rails and rail beds, and other buildings primarily used to
38 handle, store, organize, condition, analyze, or convey grain, oil~~

1 seeds, and byproducts thereof in bulk. Office space, lunchrooms,
2 restrooms, maintenance buildings, control and computer systems used to
3 operate such facilities, and other space necessary for the operation of
4 the grain elevator are considered part of the grain elevator as are
5 loading docks and other such space or structures attached or adjacent
6 to the conveyers, and other necessary devices and structures used to
7 receive, convey, or discharge grain, oil seeds, and byproducts thereof
8 via means of waterborne, rail, highway, or intermodal transport and
9 used for handling of grain, oil seeds, and byproducts thereof. Roads,
10 landscaping, and parking lots are not considered part of the grain
11 elevator. A storage yard is not a grain elevator nor is a structure in
12 which manufacturing takes place;

13 (h) "Grain exporting facility" means one or more contiguous parcels
14 of real property with one or more grain elevators;

15 (i) "Grain elevator equipment" means equipment within a grain
16 elevator facility that is primarily used to handle, store, organize,
17 convey, condition, or analyze grain, oil seeds, and byproducts thereof
18 which is not defined as a grain elevator. The term includes tangible
19 personal property with a useful life of one year or more that becomes
20 an ingredient or component of the equipment, including repair and
21 replacement parts. The term does not include equipment in offices,
22 lunchrooms, restrooms, and other like space, within a grain elevator
23 facility, or equipment used for nongrain elevator purposes. "Grain
24 elevator equipment" includes but is not limited to: Samplers, air
25 compressors, quality analyzing equipment, worker and environmental
26 safety equipment, conditioning equipment used to maintain quality,
27 lifts, positioners, cranes, hoists, mechanical arms, and robots; and
28 forklifts and other off-the-road vehicles that are used to lift or move
29 tangible personal property and that cannot be operated legally on roads
30 and streets;

31 (j) "Material-handling equipment and racking equipment" means
32 equipment in a warehouse or grain elevator that is primarily used to
33 handle, store, organize, convey, package, or repackage finished goods.
34 The term includes tangible personal property with a useful life of one
35 year or more that becomes an ingredient or component of the equipment,
36 including repair and replacement parts. The term does not include
37 equipment in offices, lunchrooms, restrooms, and other like space,
38 within a warehouse or grain elevator, or equipment used for

1 nonwarehousing purposes. "Material-handling equipment" includes but is
2 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
3 place units, cranes, hoists, mechanical arms, and robots; mechanized
4 systems, including containers that are an integral part of the system,
5 whose purpose is to lift or move tangible personal property; and
6 automated handling, storage, and retrieval systems, including computers
7 that control them, whose purpose is to lift or move tangible personal
8 property; and forklifts and other off-the-road vehicles that are used
9 to lift or move tangible personal property and that cannot be operated
10 legally on roads and streets. "Racking equipment" includes, but is not
11 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
12 pallets, and other containers and storage devices that form a necessary
13 part of the storage system;

14 ~~((i))~~ (k) "Person" has the meaning given in RCW 82.04.030;

15 ~~((j))~~ (l) "Retailer" means a person who makes "sales at retail"
16 as defined in chapter 82.04 RCW of tangible personal property;

17 ~~((k))~~ (m) "Square footage" means the product of the two
18 horizontal dimensions of each floor of a specific warehouse. The
19 entire footprint of the warehouse shall be measured in calculating the
20 square footage, including space that juts out from the building profile
21 such as loading docks. "Square footage" does not mean the aggregate of
22 the square footage of more than one warehouse at a location or the
23 aggregate of the square footage of warehouses at more than one
24 location;

25 ~~((l))~~ (n) "Third-party warehouse" means a person taxable under
26 RCW 82.04.280(4);

27 ~~((m))~~ (o) "Warehouse" means an enclosed building or structure in
28 which finished goods are stored. A warehouse building or structure may
29 have more than one storage room and more than one floor. Office space,
30 lunchrooms, restrooms, and other space within the warehouse and
31 necessary for the operation of the warehouse are considered part of the
32 warehouse as are loading docks and other such space attached to the
33 building and used for handling of finished goods. Landscaping and
34 parking lots are not considered part of the warehouse. A storage yard
35 is not a warehouse, nor is a building in which manufacturing takes
36 place; and

37 ~~((n))~~ (p) "Wholesaler" means a person who makes "sales at

1 wholesale" as defined in chapter 82.04 RCW of tangible personal
2 property, but "wholesaler" does not include a person who makes sales
3 exempt under RCW 82.04.330.

4 (3)(a) A person claiming an exemption from state tax in the form of
5 a remittance under this section must pay the tax imposed by RCW
6 82.08.020. The buyer may then apply to the department for remittance
7 of all or part of the tax paid under RCW 82.08.020. For grain
8 elevators with combined bushel capacity of one million (~~((but less than~~
9 ~~two million,))~~) or more and for grain elevators required to be issued a
10 license by the department of agriculture under chapter 22.09 RCW or
11 required to be licensed by the federal government for purposes similar
12 to those of licensure under chapter 22.09 RCW but with bushel capacity
13 of less than one million the remittance is equal to ((fifty)) one
14 hundred percent of the amount of tax paid for qualifying construction,
15 remodeling, repairing, cleaning, altering, or improving, and materials,
16 service, and labor relating to a grain elevator, and fifty percent of
17 the amount of tax paid for qualifying grain elevator equipment, and
18 labor and services rendered in respect to installing, repairing,
19 cleaning, altering, or improving the equipment. For warehouses with
20 square footage of two hundred thousand or more, other than cold storage
21 warehouses, (~~((and for grain elevators with bushel capacity of two~~
22 ~~million))~~) the remittance is equal to one hundred percent of the amount
23 of tax paid for qualifying construction, materials, service, and labor,
24 and fifty percent of the amount of tax paid for qualifying
25 material-handling equipment and racking equipment, and labor and
26 services rendered in respect to installing, repairing, cleaning,
27 altering, or improving the equipment. For cold storage warehouses with
28 square footage of twenty-five thousand or more, the remittance is equal
29 to one hundred percent of the amount of tax paid for qualifying
30 construction, materials, service, and labor, and ((fifty)) one hundred
31 percent of the amount of tax paid for qualifying material-handling
32 equipment and racking equipment, and labor and services rendered in
33 respect to installing, repairing, cleaning, altering, or improving the
34 equipment. (~~((For cold storage warehouses with square footage of~~
35 ~~twenty five thousand or more, the remittance is equal to one hundred~~
36 ~~percent of the amount of tax paid for qualifying construction,~~
37 ~~materials, service, and labor, and one hundred percent of the amount of~~

1 tax paid for qualifying material handling equipment and racking
2 equipment, and labor and services rendered in respect to installing,
3 repairing, cleaning, altering, or improving the equipment.))

4 (b) The department shall determine eligibility under this section
5 based on information provided by the buyer and through audit and other
6 administrative records. The buyer shall on a quarterly basis submit an
7 information sheet, in a form and manner as required by the department
8 by rule, specifying the amount of exempted tax claimed and the
9 qualifying purchases or acquisitions for which the exemption is
10 claimed. The buyer shall retain, in adequate detail to enable the
11 department to determine whether the equipment or construction meets the
12 criteria under this section: Invoices; proof of tax paid; documents
13 describing the material-handling equipment and racking equipment or
14 grain elevator equipment; location and size of warehouses and grain
15 elevators; and construction invoices and documents.

16 (c) The department shall on a quarterly basis remit exempted
17 amounts to qualifying persons who submitted applications during the
18 previous quarter.

19 (4) Warehouses, grain elevators, ((and)) material-handling
20 equipment and racking equipment, and grain elevator equipment for which
21 an exemption, credit, or deferral has been or is being received under
22 chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565
23 are not eligible for any remittance under this section. Warehouses
24 ((and grain elevators)) upon which construction was initiated before
25 May 20, 1997, are not eligible for a remittance under this section.

26 (5) The lessor or owner of a warehouse or grain elevator is not
27 eligible for a remittance under this section unless the underlying
28 ownership of the warehouse or grain elevator and the material-handling
29 equipment and racking equipment or grain elevator equipment vests
30 exclusively in the same person, or unless the lessor by written
31 contract agrees to pass the economic benefit of the remittance to the
32 lessee in the form of reduced rent payments.

33 **Sec. 3.** RCW 82.08.820 and 2006 c 354 s 12 are each amended to read
34 as follows:

35 (1) Wholesalers or third-party warehouse owners who own or operate
36 warehouses or grain elevators and retailers who own or operate

1 distribution centers, and who have paid the tax levied by RCW 82.08.020
2 on:

3 (a) Material-handling and racking equipment or grain elevator
4 equipment, and labor and services rendered in respect to installing,
5 repairing, cleaning, altering, or improving (~~the~~) all such equipment;
6 or

7 (b) Construction of a warehouse, or construction, remodeling,
8 repairing, cleaning, altering, or improving of a grain elevator,
9 including materials, and including service and labor costs, are
10 eligible for an exemption in the form of a remittance. The amount of
11 the remittance is computed under subsection (3) of this section and is
12 based on the state share of sales tax.

13 (2) For purposes of this section and RCW 82.12.820:

14 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

15 (b) "Construction" means the actual construction of a warehouse or
16 grain elevator that did not exist before the construction began.
17 "Construction" includes expansion, but in the case of a warehouse, only
18 if the expansion adds at least two hundred thousand square feet of
19 additional space to an existing warehouse (~~or additional storage~~
20 ~~capacity of at least one million bushels to an existing grain~~
21 ~~elevator~~). "Construction" does not include renovation, remodeling, or
22 repair;

23 (c) "Department" means the department of revenue;

24 (d) "Distribution center" means a warehouse that is used
25 exclusively by a retailer solely for the storage and distribution of
26 finished goods to retail outlets of the retailer. "Distribution
27 center" does not include a warehouse at which retail sales occur;

28 (e) "Finished goods" means tangible personal property intended for
29 sale by a retailer or wholesaler. "Finished goods" does not include
30 agricultural products stored by wholesalers, third-party warehouses, or
31 retailers if the storage takes place on the land of the person who
32 produced the agricultural product. "Finished goods" does not include
33 logs, minerals, petroleum, gas, or other extracted products stored as
34 raw materials or in bulk;

35 (f) "Grain elevator" means (~~a structure used for storage and~~
36 ~~handling of grain in bulk~~) silos, tanks, conveyers and their supports,
37 scale towers, bins, electrical improvements, scales, foundations, rails
38 and rail beds, and other buildings primarily used to handle, store,

1 organize, condition, analyze, or convey grain, oil seeds, and
2 byproducts thereof in bulk. Office space, lunchrooms, restrooms,
3 maintenance buildings, control and computer systems used to operate
4 such facilities, and other space necessary for the operation of the
5 grain elevator are considered part of the grain elevator as are loading
6 docks and other such space or structures attached or adjacent to the
7 conveyers, and other necessary devices and structures used to receive,
8 convey, or discharge grain, oil seeds, and byproducts thereof via means
9 of waterborne, rail, highway, or intermodal transport and used for
10 handling of grain, oil seeds, and byproducts thereof. Roads,
11 landscaping, and parking lots are not considered part of the grain
12 elevator. A storage yard is not a grain elevator nor is a structure in
13 which manufacturing takes place;

14 (g) "Grain elevator facility" means one or more contiguous parcels
15 of real property with one or more grain elevators;

16 (h) "Grain elevator equipment" means equipment within a grain
17 elevator facility that is primarily used to handle, store, organize,
18 convey, condition, or analyze grain, oil seeds, and byproducts thereof
19 which is not defined as a grain elevator. The term includes tangible
20 personal property with a useful life of one year or more that becomes
21 an ingredient or component of the equipment, including repair and
22 replacement parts. The term does not include equipment in offices,
23 lunchrooms, restrooms, and other like space, within a grain elevator
24 facility, or equipment used for nongrain elevator purposes. "Grain
25 elevator equipment" includes but is not limited to: Samplers, air
26 compressors, quality analyzing equipment, worker and environmental
27 safety equipment, conditioning equipment used to maintain quality,
28 lifts, positioners, cranes, hoists, mechanical arms, and robots; and
29 forklifts and other off-the-road vehicles that are used to lift or move
30 tangible personal property and that cannot be operated legally on roads
31 and streets;

32 (i) "Material-handling equipment and racking equipment" means
33 equipment in a warehouse or grain elevator that is primarily used to
34 handle, store, organize, convey, package, or repackage finished goods.
35 The term includes tangible personal property with a useful life of one
36 year or more that becomes an ingredient or component of the equipment,
37 including repair and replacement parts. The term does not include
38 equipment in offices, lunchrooms, restrooms, and other like space,

1 within a warehouse or grain elevator, or equipment used for
2 nonwarehousing purposes. "Material-handling equipment" includes but is
3 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
4 place units, cranes, hoists, mechanical arms, and robots; mechanized
5 systems, including containers that are an integral part of the system,
6 whose purpose is to lift or move tangible personal property; and
7 automated handling, storage, and retrieval systems, including computers
8 that control them, whose purpose is to lift or move tangible personal
9 property; and forklifts and other off-the-road vehicles that are used
10 to lift or move tangible personal property and that cannot be operated
11 legally on roads and streets. "Racking equipment" includes, but is not
12 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
13 pallets, and other containers and storage devices that form a necessary
14 part of the storage system;

15 ~~((h))~~ (j) "Person" has the meaning given in RCW 82.04.030;

16 ~~((i))~~ (k) "Retailer" means a person who makes "sales at retail"
17 as defined in chapter 82.04 RCW of tangible personal property;

18 ~~((j))~~ (l) "Square footage" means the product of the two
19 horizontal dimensions of each floor of a specific warehouse. The
20 entire footprint of the warehouse shall be measured in calculating the
21 square footage, including space that juts out from the building profile
22 such as loading docks. "Square footage" does not mean the aggregate of
23 the square footage of more than one warehouse at a location or the
24 aggregate of the square footage of warehouses at more than one
25 location;

26 ~~((k))~~ (m) "Third-party warehouse" means a person taxable under
27 RCW 82.04.280(4);

28 ~~((l))~~ (n) "Warehouse" means an enclosed building or structure in
29 which finished goods are stored. A warehouse building or structure may
30 have more than one storage room and more than one floor. Office space,
31 lunchrooms, restrooms, and other space within the warehouse and
32 necessary for the operation of the warehouse are considered part of the
33 warehouse as are loading docks and other such space attached to the
34 building and used for handling of finished goods. Landscaping and
35 parking lots are not considered part of the warehouse. A storage yard
36 is not a warehouse, nor is a building in which manufacturing takes
37 place; and

1 (~~(m)~~) (o) "Wholesaler" means a person who makes "sales at
2 wholesale" as defined in chapter 82.04 RCW of tangible personal
3 property, but "wholesaler" does not include a person who makes sales
4 exempt under RCW 82.04.330.

5 (3)(a) A person claiming an exemption from state tax in the form of
6 a remittance under this section must pay the tax imposed by RCW
7 82.08.020. The buyer may then apply to the department for remittance
8 of all or part of the tax paid under RCW 82.08.020. For grain
9 elevators with combined bushel capacity of one million (~~but less than~~
10 ~~two million,~~) or more and for grain elevators required to be issued a
11 license by the department of agriculture under chapter 22.09 RCW or
12 required to be licensed by the federal government for purposes similar
13 to those of licensure under chapter 22.09 RCW but with bushel capacity
14 of less than one million the remittance is equal to (~~(fifty)~~) one
15 hundred percent of the amount of tax paid for qualifying construction,
16 remodeling, repairing, cleaning, altering, or improving, and materials,
17 service, and labor relating to a grain elevator, and fifty percent of
18 the amount of tax paid for qualifying grain elevator equipment, and
19 labor and services rendered in respect to installing, repairing,
20 cleaning, altering, or improving the equipment. For warehouses with
21 square footage of two hundred thousand or more (~~and for grain~~
22 ~~elevators with bushel capacity of two million or more)), the remittance~~
23 is equal to one hundred percent of the amount of tax paid for
24 qualifying construction, materials, service, and labor, and fifty
25 percent of the amount of tax paid for qualifying material-handling
26 equipment and racking equipment, and labor and services rendered in
27 respect to installing, repairing, cleaning, altering, or improving the
28 equipment.

29 (b) The department shall determine eligibility under this section
30 based on information provided by the buyer and through audit and other
31 administrative records. The buyer shall on a quarterly basis submit an
32 information sheet, in a form and manner as required by the department
33 by rule, specifying the amount of exempted tax claimed and the
34 qualifying purchases or acquisitions for which the exemption is
35 claimed. The buyer shall retain, in adequate detail to enable the
36 department to determine whether the equipment or construction meets the
37 criteria under this section: Invoices; proof of tax paid; documents

1 describing the material-handling equipment and racking equipment or
2 grain elevator equipment; location and size of warehouses and grain
3 elevators; and construction invoices and documents.

4 (c) The department shall on a quarterly basis remit exempted
5 amounts to qualifying persons who submitted applications during the
6 previous quarter.

7 (4) Warehouses, grain elevators, ~~((and))~~ material-handling
8 equipment and racking equipment, and grain elevator equipment for which
9 an exemption, credit, or deferral has been or is being received under
10 chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565
11 are not eligible for any remittance under this section. Warehouses
12 ~~((and grain elevators))~~ upon which construction was initiated before
13 May 20, 1997, are not eligible for a remittance under this section.

14 (5) The lessor or owner of a warehouse or grain elevator is not
15 eligible for a remittance under this section unless the underlying
16 ownership of the warehouse or grain elevator and the material-handling
17 equipment and racking equipment or grain elevator equipment vests
18 exclusively in the same person, or unless the lessor by written
19 contract agrees to pass the economic benefit of the remittance to the
20 lessee in the form of reduced rent payments.

21 **Sec. 4.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to read
22 as follows:

23 (1) Wholesalers or third-party warehouse owners who own or operate
24 warehouses ~~((or))~~, grain elevators, or large grain elevator facilities,
25 and retailers who own or operate distribution centers, and who have
26 paid the tax levied under RCW 82.12.020 on:

27 (a) Material-handling equipment and racking equipment or large
28 grain elevator equipment, and labor and services rendered in respect to
29 installing, repairing, cleaning, altering, or improving ~~((the))~~ all
30 such equipment; or

31 (b) Materials incorporated in the construction of a warehouse
32 ~~((or))~~, grain elevator, or construction, remodeling, repairing,
33 cleaning, altering, or improving of a large grain elevator~~((r))~~ are
34 eligible for an exemption on tax paid in the form of a remittance or
35 credit against tax owed. The amount of the remittance or credit is
36 computed under subsection (2) of this section and is based on the state
37 share of use tax.

1 (2)(a) A person claiming an exemption from state tax in the form of
2 a remittance under this section must pay the tax imposed by RCW
3 82.12.020 to the department. The person may then apply to the
4 department for remittance of all or part of the tax paid under RCW
5 82.12.020. For grain elevators with bushel capacity of one million but
6 less than two million, the remittance is equal to fifty percent of the
7 amount of tax paid. For warehouses with square footage of two hundred
8 thousand or more, other than cold storage warehouses, and for grain
9 elevators with bushel capacity of two million or more, the remittance
10 is equal to one hundred percent of the amount of tax paid for
11 qualifying construction materials, and fifty percent of the amount of
12 tax paid for qualifying material-handling equipment and racking
13 equipment. For cold storage warehouses with square footage of twenty-
14 five thousand or more, the remittance is equal to one hundred percent
15 of the amount of tax paid for qualifying construction, materials,
16 service, and labor, and one hundred percent of the amount of tax paid
17 for qualifying material-handling equipment and racking equipment, and
18 labor and services rendered in respect to installing, repairing,
19 cleaning, altering, or improving the equipment. For large grain
20 elevator facilities the remittance is equal to one hundred percent of
21 the amount of tax paid for materials for qualifying construction,
22 remodeling, repairing, cleaning, altering, or improving, and fifty
23 percent of the amount of tax paid for qualifying large grain elevator
24 equipment.

25 (b) The department shall determine eligibility under this section
26 based on information provided by the buyer and through audit and other
27 administrative records. The buyer shall on a quarterly basis submit an
28 information sheet, in a form and manner as required by the department
29 by rule, specifying the amount of exempted tax claimed and the
30 qualifying purchases or acquisitions for which the exemption is
31 claimed. The buyer shall retain, in adequate detail to enable the
32 department to determine whether the equipment or construction meets the
33 criteria under this section: Invoices; proof of tax paid; documents
34 describing the material-handling equipment and racking equipment or
35 large grain elevator equipment; location and size of warehouses, (~~if~~
36 ~~applicable~~) grain elevators, and large grain elevator facilities; and
37 construction invoices and documents.

1 (c) The department shall on a quarterly basis remit or credit
2 exempted amounts to qualifying persons who submitted applications
3 during the previous quarter.

4 (3) Warehouses, grain elevators, ~~((and))~~ large grain elevators,
5 large grain elevator equipment, and material-handling equipment and
6 racking equipment, for which an exemption, credit, or deferral has been
7 or is being received under chapter 82.60, ~~((82.61,))~~ 82.62, or 82.63
8 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
9 remittance under this section. Materials incorporated in warehouses
10 ~~((and)),~~ grain elevators, and large grain elevators upon which
11 construction was initiated prior to May 20, 1997, are not eligible for
12 a remittance under this section.

13 (4) The lessor or owner of ~~((the))~~ a warehouse ~~((or))~~, grain
14 elevator, or large grain elevator is not eligible for a remittance or
15 credit under this section unless the underlying ownership of the
16 warehouse ~~((or))~~, grain elevator, or large grain elevator and the
17 material-handling equipment and racking equipment or large grain
18 elevator equipment vests exclusively in the same person, or unless the
19 lessor by written contract agrees to pass the economic benefit of the
20 ~~((exemption))~~ remittance to the lessee in the form of reduced rent
21 payments.

22 (5) The definitions in RCW 82.08.820 apply to this section.

23 **Sec. 5.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to read
24 as follows:

25 (1) Wholesalers or third-party warehouse owners who own or operate
26 warehouses or grain elevators~~((s))~~ and retailers who own or operate
27 distribution centers, and who have paid the tax levied under RCW
28 82.12.020 on:

29 (a) Material-handling equipment and racking equipment or grain
30 elevator equipment, and labor and services rendered in respect to
31 installing, repairing, cleaning, altering, or improving ~~((the))~~ all
32 such equipment; or

33 (b) Materials incorporated in the construction of a warehouse or
34 construction, remodeling, repairing, cleaning, altering, or improving
35 of a grain elevator~~((s))~~ are eligible for an exemption on tax paid in
36 the form of a remittance or credit against tax owed. The amount of the

1 remittance or credit is computed under subsection (2) of this section
2 and is based on the state share of use tax.

3 (2)(a) A person claiming an exemption from state tax in the form of
4 a remittance under this section must pay the tax imposed by RCW
5 82.12.020 to the department. The person may then apply to the
6 department for remittance of all or part of the tax paid under RCW
7 82.12.020. For grain elevators with combined bushel capacity of one
8 million (~~((but less than two million))~~) or more and for grain elevators
9 required to be issued a license by the department of agriculture under
10 chapter 22.09 RCW or required to be licensed by the federal government
11 for purposes similar to those of licensure under chapter 22.09 RCW but
12 with bushel capacity of less than one million, the remittance is equal
13 to (~~((fifty))~~) one hundred percent of the amount of tax paid for
14 materials for qualifying construction, remodeling, repairing, cleaning,
15 altering, or improving of a grain elevator, and fifty percent of the
16 amount of tax paid for qualifying grain elevator equipment. For
17 warehouses with square footage of two hundred thousand or more, other
18 than cold storage warehouses, (~~((and for grain elevators with bushel~~
19 ~~capacity of two million or more,))~~) the remittance is equal to one
20 hundred percent of the amount of tax paid for qualifying construction
21 materials, and fifty percent of the amount of tax paid for qualifying
22 material-handling equipment and racking equipment. For cold storage
23 warehouses with square footage of twenty-five thousand or more, the
24 remittance is equal to one hundred percent of the amount of tax paid
25 for qualifying construction, materials, service, and labor, and one
26 hundred percent of the amount of tax paid for qualifying material-
27 handling equipment and racking equipment, and labor and services
28 rendered in respect to installing, repairing, cleaning, altering, or
29 improving the equipment.

30 (b) The department shall determine eligibility under this section
31 based on information provided by the buyer and through audit and other
32 administrative records. The buyer shall on a quarterly basis submit an
33 information sheet, in a form and manner as required by the department
34 by rule, specifying the amount of exempted tax claimed and the
35 qualifying purchases or acquisitions for which the exemption is
36 claimed. The buyer shall retain, in adequate detail to enable the
37 department to determine whether the equipment or construction meets the
38 criteria under this section: Invoices; proof of tax paid; documents

1 describing the material-handling equipment and racking equipment or
2 grain elevator equipment; location and size of warehouses, (~~if~~
3 ~~applicable~~) grain elevators, and grain elevator facilities; and
4 construction invoices and documents.

5 (c) The department shall on a quarterly basis remit or credit
6 exempted amounts to qualifying persons who submitted applications
7 during the previous quarter.

8 (3) Warehouses, grain elevators, (~~and~~) grain elevator equipment,
9 and material-handling equipment and racking equipment, for which an
10 exemption, credit, or deferral has been or is being received under
11 chapter 82.60, (~~82.61~~) 82.62, or 82.63 RCW or RCW 82.08.02565 or
12 82.12.02565 are not eligible for any remittance under this section.
13 Materials incorporated in warehouses (~~and grain elevators~~) upon which
14 construction was initiated prior to May 20, 1997, are not eligible for
15 a remittance under this section.

16 (4) The lessor or owner of (~~the~~) a warehouse or grain elevator is
17 not eligible for a remittance or credit under this section unless the
18 underlying ownership of the warehouse or grain elevator and the
19 material-handling equipment and racking equipment or grain elevator
20 equipment vests exclusively in the same person, or unless the lessor by
21 written contract agrees to pass the economic benefit of the
22 (~~exemption~~) remittance to the lessee in the form of reduced rent
23 payments.

24 (5) The definitions in RCW 82.08.820 apply to this section.

25 **Sec. 6.** RCW 82.12.820 and 2006 c 354 s 13 are each amended to read
26 as follows:

27 (1) Wholesalers or third-party warehouse owners who own or operate
28 warehouses or grain elevators(~~)~~ and retailers who own or operate
29 distribution centers, and who have paid the tax levied under RCW
30 82.12.020 on:

31 (a) Material-handling equipment and racking equipment or grain
32 elevator equipment, and labor and services rendered in respect to
33 installing, repairing, cleaning, altering, or improving (~~the~~) all
34 such equipment; or

35 (b) Materials incorporated in the construction of a warehouse or
36 construction, remodeling, repairing, cleaning, altering, or improving
37 of a grain elevator(~~)~~ are eligible for an exemption on tax paid in

1 the form of a remittance or credit against tax owed. The amount of the
2 remittance or credit is computed under subsection (2) of this section
3 and is based on the state share of use tax.

4 (2)(a) A person claiming an exemption from state tax in the form of
5 a remittance under this section must pay the tax imposed by RCW
6 82.12.020 to the department. The person may then apply to the
7 department for remittance of all or part of the tax paid under RCW
8 82.12.020. For grain elevators with bushel capacity of one million
9 (~~but less than two million, the remittance is equal to fifty percent~~
10 ~~of the amount of tax paid~~) or more and for grain elevators required to
11 be issued a license by the department of agriculture under chapter
12 22.09 RCW or required to be licensed by the federal government for
13 purposes similar to those of licensure under chapter 22.09 RCW but with
14 bushel capacity of less than one million, the remittance is equal to
15 one hundred percent of the tax paid for materials for qualifying
16 construction, remodeling, repairing, cleaning, altering, or improving
17 of a grain elevator, and fifty percent of the amount of tax paid for
18 qualifying grain elevator equipment. For warehouses with square
19 footage of two hundred thousand or more (~~and for grain elevators with~~
20 ~~bushel capacity of two million or more~~), the remittance is equal to
21 one hundred percent of the amount of tax paid for qualifying
22 construction materials, and fifty percent of the amount of tax paid for
23 qualifying material-handling equipment and racking equipment.

24 (b) The department shall determine eligibility under this section
25 based on information provided by the buyer and through audit and other
26 administrative records. The buyer shall on a quarterly basis submit an
27 information sheet, in a form and manner as required by the department
28 by rule, specifying the amount of exempted tax claimed and the
29 qualifying purchases or acquisitions for which the exemption is
30 claimed. The buyer shall retain, in adequate detail to enable the
31 department to determine whether the equipment or construction meets the
32 criteria under this section: Invoices; proof of tax paid; documents
33 describing the material-handling equipment and racking equipment or
34 grain elevator equipment; location and size of warehouses(~~, if~~
35 ~~applicable~~) and grain elevators; and construction invoices and
36 documents.

37 (c) The department shall on a quarterly basis remit or credit

1 exempted amounts to qualifying persons who submitted applications
2 during the previous quarter.

3 (3) Warehouses, grain elevators, ~~((and))~~ grain elevator equipment,
4 and material-handling equipment and racking equipment, for which an
5 exemption, credit, or deferral has been or is being received under
6 chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565
7 are not eligible for any remittance under this section. Materials
8 incorporated in warehouses ~~((and—grain—elevators))~~ upon which
9 construction was initiated prior to May 20, 1997, are not eligible for
10 a remittance under this section.

11 (4) The lessor or owner of ~~((the))~~ a warehouse or grain elevator is
12 not eligible for a remittance or credit under this section unless the
13 underlying ownership of the warehouse or grain elevator and material-
14 handling equipment and racking equipment or grain elevator equipment
15 vests exclusively in the same person, or unless the lessor by written
16 contract agrees to pass the economic benefit of the ~~((exemption))~~
17 remittance to the lessee in the form of reduced rent payments.

18 (5) The definitions in RCW 82.08.820 apply to this section.

19 NEW SECTION. Sec. 7. Sections 1 and 4 of this act are necessary
20 for the immediate preservation of the public peace, health, or safety,
21 or support of the state government and its existing public
22 institutions, and take effect July 1, 2007.

23 NEW SECTION. Sec. 8. Sections 2 and 5 of this act take effect
24 January 1, 2009.

25 NEW SECTION. Sec. 9. Sections 3 and 6 of this act take effect
26 July 1, 2012.

27 NEW SECTION. Sec. 10. Sections 1 and 4 of this act expire January
28 1, 2009.

29 NEW SECTION. Sec. 11. Sections 2 and 5 of this act expire July 1,
30 2012.

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