
HOUSE BILL 1981

State of Washington

66th Legislature

2019 Regular Session

By Representatives Maycumber, Chapman, Kretz, and Walsh

1 AN ACT Relating to providing a business and occupation credit for
2 manufacturers utilizing a patent; adding a new section to chapter
3 82.04 RCW; creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
6 performance statement for the tax preference contained in sections 2
7 and 3, chapter . . ., Laws of 2019 (sections 2 and 3 of this act).
8 This performance statement is only intended to be used for subsequent
9 evaluation of the tax preference. It is not intended to create a
10 private right of action by any party or to be used to determine
11 eligibility for preferential tax treatment.

12 (2) The legislature categorizes this tax preference as one
13 intended to provide tax relief for certain businesses or individuals,
14 as indicated in RCW 82.32.808(2)(e).

15 (3) It is the legislature's specific public policy objective to
16 encourage businesses to invest in manufacturing.

17 (4) If a review finds that there are at least ten taxpayers that
18 utilize this tax preference and that the total amount of
19 manufacturing activities in Washington has increased, then the
20 legislature intends to extend the expiration date of this tax
21 preference.

1 (5) In order to obtain the data necessary to perform the review
2 in subsection (4) of this section, the joint legislative audit and
3 review committee may refer to any data collected by the state.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
5 RCW to read as follows:

6 (1) Subject to the limits and provisions of this section, a
7 credit is authorized against the tax otherwise due under RCW
8 82.04.240 for qualified expenditures by persons engaged in the
9 business of manufacturing that utilizes a patent granted by the
10 United States patent and trademark office.

11 (2)(a) Subject to the limits in (b) of this subsection, the
12 maximum credit under this section equals five hundred thousand
13 dollars or the amount of qualified expenditures for a calendar year,
14 whichever is less. Unused credits may not be carried over to other
15 years. No refunds may be granted for credits under this section.

16 (b) Credits are available on a first-in-time basis. The
17 department must disallow any credits, or portion thereof, that would
18 cause the total amount of credits claimed under this section during
19 any calendar year to exceed fifty million dollars. In addition, the
20 department must provide written notice to any person who has claimed
21 tax credits in excess of the limitation of this subsection. The
22 notice must indicate the amount of tax due and provide that the tax
23 must be paid within thirty days from the date of the notice. The
24 department may not assess penalties and interest as provided in
25 chapter 82.32 RCW on the amount due in the initial notice if the
26 amount is paid by the due date specified in the notice, or any
27 extension thereof.

28 (3) To qualify for the credit, the person must:

29 (a) Be a manufacturer as defined in RCW 82.04.110;

30 (b) Be utilizing a patent granted by the United States patent and
31 trademark office for:

32 (i) A process, machine, article of manufacture, or compositions
33 of matter, or any new or useful improvements thereof;

34 (ii) A new, original, and ornamental design for an article of
35 manufacture; or

36 (iii) An invention or discovery and asexual reproduction of any
37 distinct or new variety of plant;

38 (c) Have or previously had a presence in Washington at:

1 (i) The date of patent application, including a provisional
2 application for patent; or

3 (ii) The date the patent was granted; and

4 (d) Engage in manufacturing activities in Washington directly
5 related to the subject matter of the patent.

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

8 (a) "Presence in Washington" means:

9 (i) Meets the criteria for "substantial nexus" pursuant to RCW
10 82.04.067;

11 (ii) Provides a Washington address on the applicable patent
12 application; or

13 (iii) Holds a Washington business license.

14 (b) "Qualified expenditures" means any expenditures directly
15 related to the manufacture of a patented product, utilizing a
16 patented process, or otherwise utilizing the patent in manufacturing
17 in Washington. This includes, but is not limited to, costs associated
18 with constructing or remodeling manufacturing facilities, the cost of
19 research and development associated with the patent, and operating
20 expenses, including wages.

21 (5) To claim a credit under this section, a person must file with
22 the department all returns, forms, and any other information required
23 by the department, in an electronic format as provided or approved by
24 the department. Any return, form, or information required to be filed
25 in an electronic form under this section is not filed until received
26 by the department in an electronic format. As used in this
27 subsection, "returns" has the same meaning as "return" in RCW
28 82.32.050.

29 (6) No application is necessary for the tax credit. The person
30 must keep records necessary for the department to verify eligibility
31 under this section.

32 (7) Beginning January 1, 2020, this section applies to taxes due
33 for all calendar years through 2030.

34 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2020.

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