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SENATE BILL 5630

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State of Washington

65th Legislature

2017 Regular Session

By Senators Braun, Ranker, Mullet, Rivers, Cleveland, Zeiger, and Liias; by request of Office of Financial Management

1 AN ACT Relating to reinstating tax preferences for certain high-  
2 technology research and development; amending RCW 82.63.010,  
3 82.63.020, and 82.63.045; reenacting RCW 82.63.060 and 82.63.065;  
4 adding a new section to chapter 82.04 RCW; adding a new section to  
5 chapter 82.63 RCW; creating a new section; and providing expiration  
6 dates.

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

8 NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
9 performance statement for the tax credit contained in section 2 of  
10 this act and the tax deferrals contained in sections 3 through 8 of  
11 this act. This performance statement is only intended to be used for  
12 subsequent evaluation of the tax preferences. It is not intended to  
13 create a private right of action by any party or be used to determine  
14 eligibility for preferential tax treatment.

15 (2) The legislature categorizes these tax preferences as intended  
16 to improve industry competitiveness and create or retain jobs, as  
17 indicated in RCW 82.32.808(2) (b) and (c).

18 (3) It is the legislature's specific public policy objective to  
19 improve industry competitiveness and create or retain more jobs. It  
20 is the legislature's intent to provide a business and occupation tax  
21 credit for advanced spacecraft manufacturing, life science, and

1 environmental technology companies performing research and  
2 development, and a sales and use tax deferral for certain  
3 construction for new and expanding companies conducting research and  
4 development in the fields of advanced spacecraft manufacturing, life  
5 science, and environmental technology in order to reduce the business  
6 costs of performing research and development and to reduce the cost  
7 of certain construction and equipment purchases used for research and  
8 development in specified areas, thereby encouraging investments in  
9 research and development, thereby increasing the number of firms in  
10 the industry performing research and development activities, thereby  
11 increasing the number of jobs performing research and development in  
12 the advanced spacecraft manufacturing, life science, and  
13 environmental technology industries.

14 (4) If a review finds that the number of businesses participating  
15 in the credit and deferral programs, and the overall number of jobs  
16 for businesses participating in the credit and deferral programs  
17 performing research and development, have increased compared to the  
18 number at the time of enactment, then the legislature intends to  
19 extend the expiration date of the tax preferences.

20 (5) In order to obtain the data necessary to perform the review  
21 in subsection (4) of this section, the joint legislative audit and  
22 review committee may refer to: (a) Employment data available from the  
23 employment security department; (b) return and tax information  
24 maintained by the department of revenue; and (c) any other data as  
25 the joint legislative audit and review committee deems useful.

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

28 (1) Beginning January 1, 2018, a credit against the tax imposed  
29 under this chapter is allowed for each person whose research and  
30 development spending during the year in which the credit is claimed  
31 exceeds 0.92 percent of the person's taxable amount during the same  
32 calendar year.

33 (2) To be eligible for the credit under this section for research  
34 and development conducted in advanced spacecraft manufacturing, a  
35 person must, as of January 1, 2018:

36 (a) Have an active tax registration with the department; and

37 (b) Be actively engaged in advanced spacecraft manufacturing.

38 (3) A person's credit is calculated as follows:

1 (a) Determine the greater of the amount of (i) the person's  
2 qualified research and development expenditures or (ii) eighty  
3 percent of amounts received by the person, other than a public  
4 educational or research institution, in compensation for the conduct  
5 of qualified research and development actually performed directly by  
6 the person;

7 (b) Subtract 0.92 percent of the person's taxable amount from the  
8 amount determined under (a) of this subsection;

9 (c) Multiply the amount determined under (b) of this subsection  
10 by 1.50 percent.

11 (4) Any person entitled to the credit provided in this section as  
12 a result of qualified research and development conducted under  
13 contract may assign all or any portion of the credit to the person  
14 contracting for the performance of the qualified research and  
15 development.

16 (5) The credit, including any credit assigned to a person under  
17 subsection (4) of this section, must be claimed against taxes due for  
18 the same calendar year in which the qualified research and  
19 development expenditures are incurred. The credit, including any  
20 credit assigned to a person under subsection (4) of this section, for  
21 each calendar year may not exceed the lesser of five hundred thousand  
22 dollars or the amount of tax otherwise due under this chapter for the  
23 calendar year.

24 (6) For any person claiming the credit, including any credit  
25 assigned to a person under subsection (4) of this section, whose  
26 research and development spending during the calendar year in which  
27 the credit is claimed fails to exceed 0.92 percent of the person's  
28 taxable amount during the same calendar year or who is otherwise  
29 ineligible, the department must declare the taxes against which the  
30 credit was claimed to be immediately due and payable. The department  
31 must assess interest on the taxes against which the credit was  
32 claimed. However, the department may not assess penalties on taxes  
33 due under this subsection, unless the person who claimed the credit  
34 did not engage in any qualified research and development during the  
35 calendar year for which the tax credit was claimed. Interest must be  
36 assessed at the rate provided for delinquent excise taxes under  
37 chapter 82.32 RCW, retroactively to the date the credit was claimed,  
38 and accrues until the taxes against which the credit was claimed are  
39 repaid. Any credit assigned to a person under subsection (4) of this  
40 section that is disallowed as a result of this subsection may be

1 claimed by the person who performed the qualified research and  
2 development, subject to the limitations set forth in subsection (5)  
3 of this section.

4 (7) A person claiming the credit provided in this section must  
5 file a complete annual survey with the department under  
6 RCW 82.32.585.

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

9 (a) "Advanced spacecraft manufacturing" has the same meaning as  
10 in RCW 82.63.010.

11 (b) "Qualified research and development" has the same meaning as  
12 in RCW 82.63.010.

13 (c) "Qualified research and development expenditures" means  
14 operating expenses, including wages, compensation of a proprietor or  
15 a partner in a partnership as determined under rules adopted by the  
16 department, benefits, supplies, and computer expenses, directly  
17 incurred in qualified research and development by a person claiming  
18 the credit provided in this section. The term does not include  
19 amounts paid to a person, other than a public educational or research  
20 institution, to conduct qualified research and development. Nor does  
21 the term include capital costs and overhead, such as expenses for  
22 land, structures, or depreciable property.

23 (d) "Research and development spending" means qualified research  
24 and development expenditures plus eighty percent of amounts paid to a  
25 person, other than a public educational or research institution, to  
26 conduct qualified research and development.

27 (e) "Taxable amount" means the taxable amount subject to the tax  
28 imposed in this chapter required to be reported on the person's  
29 combined excise tax returns for the calendar year for which the  
30 credit is claimed, less any taxable amount for which a credit is  
31 allowed under RCW 82.04.440.

32 (9) This section expires January 1, 2027.

33 **Sec. 3.** RCW 82.63.010 and 2015 3rd sp.s. c 5 s 303 are each  
34 amended to read as follows:

35 The definitions in this section apply throughout this chapter  
36 unless the context clearly requires otherwise.

37 (1) (~~"Advanced computing" means technologies used in the~~  
38 ~~designing and developing of computing hardware and software,~~

1 including innovations in designing the full spectrum of hardware from  
2 handheld calculators to super computers, and peripheral equipment.

3 ~~(2) "Advanced materials" means materials with engineered~~  
4 ~~properties created through the development of specialized processing~~  
5 ~~and synthesis technology, including ceramics, high value-added~~  
6 ~~metals, electronic materials, composites, polymers, and biomaterials.~~

7 ~~(3))~~ (a) "Advanced spacecraft manufacturing" means the  
8 application of technologies, in the design and development of  
9 unmanned commercial spacecraft, by a manufacturer of commercial  
10 spacecraft.

11 (b) For purposes of this subsection (1), the following  
12 definitions apply:

13 (i) "Commercial spacecraft" means a device, and its components,  
14 designed for suborbital space flight or to operate in, or place a  
15 payload in, outer space, including satellites, but only when such  
16 device is intended for sale or commercial or industrial use in  
17 providing:

18 (A) Space transportation services regulated by the federal  
19 aviation administration, office of commercial space transportation,  
20 or successor agency, under 14 C.F.R., Chapter III; or

21 (B) Satellite communication services regulated by the federal  
22 communications commission, or successor agency, under 47 C.F.R. Part  
23 25.

24 (ii) "Commercial or industrial use" and "manufacturer" have the  
25 same meaning as in chapter 82.04 RCW.

26 (2) "Applicant" means a person applying for a tax deferral under  
27 this chapter.

28 ~~((4))~~ (3) "Biotechnology" means the application of  
29 technologies, such as recombinant DNA techniques, biochemistry,  
30 molecular and cellular biology, genetics and genetic engineering,  
31 cell fusion techniques, and new bioprocesses, using living organisms,  
32 or parts of organisms, to produce or modify products, to improve  
33 plants or animals, to develop microorganisms for specific uses, to  
34 identify targets for small molecule pharmaceutical development, or to  
35 transform biological systems into useful processes and products or to  
36 develop microorganisms for specific uses.

37 ~~((5) "Department" means the department of revenue.~~

38 ~~(6) "Electronic device technology" means technologies involving~~  
39 ~~microelectronics; semiconductors; electronic equipment and~~  
40 ~~instrumentation; radio frequency, microwave, and millimeter~~

1 ~~electronics; optical and optic-electrical devices; and data and~~  
2 ~~digital communications and imaging devices.~~

3 ~~(7))~~ (4) "Eligible investment project" means an investment  
4 project which either initiates a new operation, or expands or  
5 diversifies a current operation by expanding, renovating, or  
6 equipping an existing facility. The lessor or owner of the qualified  
7 building is not eligible for a deferral unless:

8 (a) The underlying ownership of the buildings, machinery, and  
9 equipment vests exclusively in the same person; or

10 (b)(i) The lessor by written contract agrees to pass the economic  
11 benefit of the deferral to the lessee;

12 (ii) The lessee that receives the economic benefit of the  
13 deferral agrees in writing with the department to complete the annual  
14 survey required under RCW 82.63.020(~~(2))~~ (5); and

15 (iii) The economic benefit of the deferral passed to the lessee  
16 is no less than the amount of tax deferred by the lessor and is  
17 evidenced by written documentation of any type of payment, credit, or  
18 other financial arrangement between the lessor or owner of the  
19 qualified building and the lessee.

20 ~~((8))~~ (5) "Environmental technology" means assessment and  
21 prevention of threats or damage to human health or the environment,  
22 environmental cleanup, and the development of alternative energy  
23 sources.

24 ~~((9))~~ (6)(a) "Initiation of construction" means the date that a  
25 building permit is issued under the building code adopted under RCW  
26 19.27.031 for:

27 (i) Construction of the qualified building, if the underlying  
28 ownership of the building vests exclusively with the person receiving  
29 the economic benefit of the deferral;

30 (ii) Construction of the qualified building, if the economic  
31 benefits of the deferral are passed to a lessee as provided in  
32 subsection ~~((7))~~ (4) of this section; or

33 (iii) Tenant improvements for a qualified building, if the  
34 economic benefits of the deferral are passed to a lessee as provided  
35 in subsection ~~((7))~~ (4) of this section.

36 (b) "Initiation of construction" does not include soil testing,  
37 site clearing and grading, site preparation, or any other related  
38 activities that are initiated before the issuance of a building  
39 permit for the construction of the foundation of the building.

1 (c) If the investment project is a phased project, "initiation of  
2 construction" (~~(shall apply)~~) applies separately to each phase.

3 ~~((10))~~ (7) "Investment project" means an investment in  
4 qualified buildings or qualified machinery and equipment, including  
5 labor and services rendered in the planning, installation, and  
6 construction or improvement of the project.

7 (8) "Life science" means the application of technologies in the  
8 fields of biotechnology and medical devices.

9 (9) "Meaningful construction" means an active construction site,  
10 where excavation of a building site, laying of a building foundation,  
11 or other tangible signs of construction are taking place and that  
12 clearly shows a progression in the construction process, at the  
13 location designated by the taxpayer in the application for deferral.  
14 Planning, permitting, or land clearing before excavation of the  
15 building site, without more, does not constitute meaningful  
16 construction.

17 (10) "Medical device" means an instrument, apparatus, implement,  
18 machine, contrivance, implant, in vitro reagent, or other similar or  
19 related article, including any component, part, or accessory, that is  
20 designed or developed and:

21 (a) Recognized in the national formulary, or the United States  
22 pharmacopeia, or any supplement to them;

23 (b) Intended for use in the diagnosis of disease, or in the cure,  
24 mitigation, treatment, or prevention of disease or other conditions  
25 in human beings or other animals; or

26 (c) Intended to affect the structure or any function of the body  
27 of human beings or other animals, and which does not achieve any of  
28 its primary intended purposes through chemical action within or on  
29 the body of human beings or other animals and which is not dependent  
30 upon being metabolized for the achievement of any of its principal  
31 intended purposes.

32 (11) "Multiple qualified buildings" means qualified buildings  
33 leased to the same person when:

34 (a) Such structures(~~(a)~~) are located within a five-mile  
35 radius; and

36 (b) The initiation of construction of each building begins within  
37 a sixty-month period.

38 (12)(a) "Person" has the meaning given in RCW 82.04.030 and  
39 includes state universities as defined in RCW 28B.10.016. Person also  
40 includes any affiliate of a person.

1 (b) For purposes of this subsection (12):

2 (i) "Affiliate" means a person who controls, is controlled by, or  
3 is under common control with another person; and

4 (ii) "Control" means the possession, directly or indirectly, of  
5 more than twenty percent of the power to direct or cause the  
6 direction of the management and policies of a person, whether through  
7 the ownership of voting shares, by contract, or otherwise.

8 (13) "Pilot scale manufacturing" means design, construction, and  
9 testing of preproduction prototypes and models in the fields of  
10 (~~biotechnology, advanced computing, electronic device technology,~~  
11 ~~advanced materials~~) advanced spacecraft manufacturing, life science,  
12 and environmental technology other than for commercial sale. As used  
13 in this subsection, "commercial sale" excludes sales of prototypes or  
14 sales for market testing if the total gross receipts from such sales  
15 of the product, service, or process do not exceed one million  
16 dollars.

17 (14) "Qualified buildings" means construction of new structures,  
18 and expansion or renovation of existing structures for the purpose of  
19 increasing floor space or production capacity used for pilot scale  
20 manufacturing or qualified research and development, including plant  
21 offices and other facilities that are an essential or an integral  
22 part of a structure used for pilot scale manufacturing or qualified  
23 research and development. Areas used for amusement and recreational  
24 activities, physical fitness activities, parking, the selling or  
25 furnishing of meals or other food and beverages, or similar  
26 commercial and noncommercial activities are not essential or integral  
27 to pilot scale manufacturing or qualified research and development.

28 If a building or buildings are used partly for pilot scale  
29 manufacturing or qualified research and development, and partly for  
30 other purposes, the applicable tax deferral (~~shall~~) must be  
31 determined by apportionment of the costs of construction under rules  
32 adopted by the department. Such rules may include provisions for  
33 determining the amount of the deferral based on apportionment of  
34 costs of construction of an investment project consisting of a  
35 building or multiple buildings, where qualified research and  
36 development or pilot scale manufacturing activities are shifted  
37 within a building or from one building to another building.

38 (15)(a) "Qualified machinery and equipment" means fixtures,  
39 equipment, and support facilities that are an integral and necessary  
40 part of a pilot scale manufacturing or qualified research and



1 development operation. "Qualified machinery and equipment" includes:  
2 Computers; software; data processing equipment; laboratory equipment,  
3 instrumentation, and other devices used in a process of  
4 experimentation to develop a new or improved pilot model, plant  
5 process, product, formula, invention, or similar property;  
6 manufacturing components such as belts, pulleys, shafts, and moving  
7 parts; molds, tools, and dies; vats, tanks, and fermenters; operating  
8 structures; and all other equipment used to control, monitor, or  
9 operate the machinery. For purposes of this chapter, qualified  
10 machinery and equipment must be either new to the taxing jurisdiction  
11 of the state or new to the certificate holder, except that used  
12 machinery and equipment may be treated as qualified machinery and  
13 equipment if the certificate holder either brings the machinery and  
14 equipment into Washington or makes a retail purchase of the machinery  
15 and equipment in Washington or elsewhere.

16 (b) "Qualified machinery and equipment" does not include any  
17 fixtures, equipment, or support facilities, if the sale to or use by  
18 the recipient is not eligible for an exemption under RCW 82.08.02565  
19 or 82.12.02565 solely because the recipient is an ineligible person  
20 as defined in RCW 82.08.02565.

21 (16) "Qualified research and development" means research and  
22 development performed within this state in the fields of (~~advanced~~  
23 ~~computing, advanced materials, biotechnology, electronic device~~  
24 ~~technology~~) advanced spacecraft manufacturing, life science, and  
25 environmental technology.

26 (17) "Recipient" means a person receiving a tax deferral under  
27 this chapter.

28 (18) "Research and development" means activities performed to  
29 discover technological information, and technical and nonroutine  
30 activities concerned with translating technological information into  
31 new or improved products, processes, techniques, formulas,  
32 inventions, or software. The term includes exploration of a new use  
33 for an existing drug, device, or biological product if the new use  
34 requires separate licensing by the federal food and drug  
35 administration under chapter 21, C.F.R., as amended. The term does  
36 not include adaptation or duplication of existing products where the  
37 products are not substantially improved by application of the  
38 technology, nor does the term include surveys and studies, social  
39 science and humanities research, market research or testing, quality  
40 control, sale promotion and service, computer software developed for

1 internal use, and research in areas such as improved style, taste,  
2 and seasonal design.

3 **Sec. 4.** RCW 82.63.020 and 2010 c 114 s 140 are each amended to  
4 read as follows:

5 (1) A person is not eligible for a tax deferral under this  
6 chapter for an investment project to be used for research and  
7 development performed within this state in advanced spacecraft  
8 manufacturing unless, as of January 1, 2018, the person:

9 (a) Has an active tax registration with the department; and

10 (b) Is actively engaged in advanced spacecraft manufacturing.

11 (2)(a) Application for deferral of taxes under this chapter must  
12 be made to the department before initiation of construction of, or  
13 acquisition of equipment or machinery for the investment project. In  
14 the case of an investment project involving multiple qualified  
15 buildings, applications must be made for, and before the initiation  
16 of construction of, each qualified building, and must be received by  
17 the department before January 1, 2015. The application must be made  
18 to the department in a form and manner prescribed by the department.  
19 The application must contain information regarding the location of  
20 the investment project, the applicant's average employment in the  
21 state for the prior year, estimated or actual new employment related  
22 to the project, estimated or actual wages of employees related to the  
23 project, estimated or actual costs, time schedules for completion and  
24 operation, and other information required by the department. The  
25 department must rule on the application within sixty days. The  
26 department must deny any applications received between January 1,  
27 2015, and December 31, 2017, inclusive, or after October 31, 2026.  
28 For investment projects involving multiple qualified buildings, the  
29 department must deny any applications received after December 31,  
30 2015.

31 (b) Nothing in this subsection (2) may be construed to allow a  
32 tax deferral for an investment project for which an application for  
33 deferral under this chapter was denied by the department before  
34 January 1, 2015.

35 (3) The department will approve applications that indicate  
36 meaningful construction of an eligible investment project will occur  
37 within five years of the date of application. Applications indicating  
38 that meaningful construction of an eligible investment project will  
39 not occur within two years of the date of the application may be

1 required to include additional documentation about the investment  
2 project, such as project milestones and other information the  
3 department may require. Applications that do not indicate meaningful  
4 construction will occur within five years of the date of application  
5 must be denied.

6 (4)(a) Recipients may amend an approved deferral application to  
7 update the completion date, estimated expenses, the square footage of  
8 the investment project, or other information about the investment  
9 project. Amendments must be made in a form and manner prescribed by  
10 the department.

11 (b) Requests to amend a previously approved application for an  
12 investment project for which meaningful construction has not  
13 commenced within five years of the date of the initial application  
14 must be denied.

15 ~~((+2))~~ (5) Each recipient of a deferral of taxes under this  
16 chapter must file a complete annual survey with the department under  
17 RCW 82.32.585. If the economic benefits of the deferral are passed to  
18 a lessee as provided in RCW 82.63.010(~~((+7))~~) (4), the lessee must  
19 file a complete annual survey, and the applicant is not required to  
20 file the annual survey.

21 ~~((+3) The department must use the information reported on the~~  
22 ~~annual survey required by this section to study the tax deferral~~  
23 ~~program authorized under this chapter. The department must report to~~  
24 ~~the legislature by December 1, 2009, and December 1, 2013. The~~  
25 ~~reports must measure the effect of the program on job creation, the~~  
26 ~~number of jobs created for Washington residents, company growth, the~~  
27 ~~introduction of new products, the diversification of the state's~~  
28 ~~economy, growth in research and development investment, the movement~~  
29 ~~of firms or the consolidation of firms' operations into the state,~~  
30 ~~and such other factors as the department selects.~~

31 ~~((+4))~~ (6) A recipient who must repay deferred taxes under RCW  
32 82.63.045 (~~((because the department has found that an investment~~  
33 project is used for purposes other than research and development  
34 performed within this state in the fields of advanced computing,  
35 advanced materials, biotechnology, electronic device technology, and  
36 environmental technology)) is no longer required to file annual  
37 surveys under RCW 82.32.585 (~~((beginning on the date an investment~~  
38 project is used for nonqualifying purposes)).

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 82.63  
2    RCW to read as follows:

3        (1)(a)    Except as otherwise provided in this section, the  
4    department must issue a sales and use tax deferral certificate for  
5    state and local sales and use taxes due under chapters 82.08, 82.12,  
6    82.14, and 81.104 RCW on each eligible investment project.

7        (b) The amount of tax imposed under chapters 82.08 and 82.12 RCW  
8    eligible for deferral under a certificate issued pursuant to this  
9    section is limited to one million dollars per eligible investment  
10   project per person. Once a person reaches the one million dollar  
11   limit in this subsection (1)(b), the person may no longer defer under  
12   this chapter any state or local sales or use taxes due on the  
13   eligible investment project.

14        (2) The department may not issue deferral certificates under this  
15   section before January 1, 2018.

16        (3) Only one eligible investment project per person qualifies for  
17   a deferral certificate under this section during a calendar year.

18        (4) No certificate may be issued for an investment project that  
19   has already received a deferral under chapter 82.60 RCW, or this  
20   chapter, except that an investment project for qualified research and  
21   development that has already received a deferral may also receive an  
22   additional deferral certificate for adapting the investment project  
23   for use in pilot scale manufacturing.

24        (5) This section expires January 1, 2027.

25        **Sec. 6.**    RCW 82.63.045 and 2010 c 114 s 141 are each amended to  
26   read as follows:

27        (1) Except as provided in subsection (2) of this section and RCW  
28   82.32.585, taxes deferred under this chapter need not be repaid.

29        (2)(a) If, on the basis of the survey under RCW 82.32.585 or  
30   other information, the department finds that an investment project is  
31   used for purposes other than qualified research and development or  
32   pilot scale manufacturing at any time during the calendar year in  
33   which the investment project is certified by the department as having  
34   been operationally completed, or at any time during any of the seven  
35   succeeding calendar years, a portion of deferred taxes is immediately  
36   due according to the following schedule:

| Year in which use occurs | % of deferred taxes due |
|--------------------------|-------------------------|
| 1                        | 100%                    |

|   | Year in which use occurs | % of deferred taxes due |
|---|--------------------------|-------------------------|
| 2 |                          |                         |
| 1 | 2                        | 87.5%                   |
| 3 | 3                        | 75%                     |
| 4 | 4                        | 62.5%                   |
| 5 | 5                        | 50%                     |
| 6 | 6                        | 37.5%                   |
| 7 | 7                        | 25%                     |
| 8 | 8                        | 12.5%                   |

9       (b) If the department finds that meaningful construction of an  
10 investment project did not begin within five years of the date of the  
11 application or that an investment project is not operationally  
12 complete within ten years of the date of the initial application for  
13 deferral, the full amount of deferred taxes is immediately due.

14       (c) If the economic benefits of the deferral are passed to a  
15 lessee as provided in RCW 82.63.010(~~((7))~~) (4), the lessee is  
16 responsible for payment to the extent the lessee has received the  
17 economic benefit.

18       (3)(a) Notwithstanding subsection (2) of this section, in the  
19 case of an investment project consisting of multiple qualified  
20 buildings, the lessee is solely liable for payment of any deferred  
21 tax determined by the department to be due and payable under this  
22 section beginning on the date (~~(the department certifies)~~) that the  
23 project is operationally complete as certified by the department.

24       (b) This subsection does not relieve the lessors of its  
25 obligation to the lessee under RCW 82.63.010(~~((7))~~) (4) to pass the  
26 economic benefit of the deferral to the lessee.

27       (4) The department must assess interest at the rate provided for  
28 delinquent taxes, but not penalties, retroactively to the date of  
29 deferral. The debt for deferred taxes will not be extinguished by  
30 insolvency or other failure of the recipient. Transfer of ownership  
31 does not terminate the deferral, unless the successor does not agree  
32 in writing with the department to be bound by the eligibility  
33 requirements of this chapter. The deferral is transferred, subject to  
34 the successor meeting the eligibility requirements of this chapter,  
35 for the remaining periods of the deferral.

36       (5) Notwithstanding subsection (2) of this section or RCW  
37 82.32.585, deferred taxes on the following need not be repaid:

1 (a) Machinery and equipment, and sales of or charges made for  
2 labor and services, which at the time of purchase would have  
3 qualified for exemption under RCW 82.08.02565; and

4 (b) Machinery and equipment which at the time of first use would  
5 have qualified for exemption under RCW 82.12.02565.

6 **Sec. 7.** RCW 82.63.060 and 1994 sp.s. c 5 s 8 are each reenacted  
7 to read as follows:

8 Chapter 82.32 RCW applies to the administration of this chapter.

9 **Sec. 8.** RCW 82.63.065 and 2009 c 268 s 6 are each reenacted to  
10 read as follows:

11 The department may adopt rules as may be necessary to administer  
12 this chapter.

--- END ---