



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

MAY 2016

## High Unemployment County Sales and Use Tax Deferral Program Eligible Counties from July 1, 2016 - June 30, 2018

### Purpose

This special notice updates the list of counties that qualify for the High Unemployment County Sales and Use Tax Deferral Program from July 1, 2016 – June 30, 2018. This list is updated every two years. A summary of the program and its requirements is provided for your convenience.

### What the deferral program provides

The High Unemployment County Sales/Use Tax Deferral Program grants a **deferral** of sales/use tax on purchases of qualifying machinery, equipment and construction of qualified buildings to approved businesses that are:

- located in qualifying counties or Community Empowerment Zones (CEZs), and
- engaged in any of the activities listed below:
  - manufacturing
  - research and development laboratories
  - commercial testing facilities
  - vegetable seed conditioning

The program allows for the waiver of the deferred sales and/or use tax when all program requirements have been met and verified.

This program expires on July 1, 2020.

**Which counties qualify as eligible areas?**

Qualifying counties are those counties with an unemployment rate that is at least 20 percent above the state average for the three calendar years immediately preceding the year in which the list is published or updated. The list of eligible counties is published by the Washington State Employment Security Department.

The current list includes the 3-year average unemployment rate from January 2013 – December 2015. The eligible counties for applications received from **July 1, 2016 – June 30, 2018** are:

Adams	Franklin	Lewis	Skagit
Benton	Grant	Mason	Skamania
Clallam	Grays Harbor	Okanogan	Stevens
Cowlitz	Jefferson	Pacific	Wahkiakum
Ferry	Klickitat	Pend Oreille	Yakima

The eligible counties for applications received from July 1, 2014 – June 30, 2016 were:

Clallam	Ferry	Mason	Stevens
Clark	Grays Harbor	Pacific	Wahkiakum
Columbia	Klickitat	Pend Oreille	Yakima
Cowlitz	Lewis	Skamania	

The eligible counties for applications received from July 1, 2012 – June 30, 2014 were:

Clark	Grays Harbor	Pend Oreille	Wahkiakum
Cowlitz	Lewis	Skamania	
Ferry	Pacific	Stevens	

The eligible counties for applications received from July 1, 2010 – June 30, 2012 were:

Clark	Grays Harbor	Mason	Skamania
Columbia	Klickitat	Pacific	Stevens
Cowlitz	Lewis	Pend Oreille	Wahkiakum
Ferry			

Businesses making investment decisions need to be aware that the list is updated every two years. A specific area may not be on the list each time it is updated. Before making a final investment decision based on this program, the business should call the Special Programs Division at (360) 534-1503, option 6 to determine the eligibility of a particular area.

**Which Community Empowerment Zones qualify as eligible areas?**

All Community Empowerment Zones (CEZ) approved under RCW 43.31C.020 are eligible. They have a continuous eligible status and are not reevaluated annually. The following cities have designated community empowerment zones:

Bremerton	Spokane	White Center
Duwamish	Tacoma	Yakima

Maps of the CEZs are available on the Tax Incentive Programs web page on our website at <http://dor.wa.gov>. Scroll to the bottom of the page where you'll find CEZ map links.

**What are the business requirements for deferral program?**

To qualify for the program, businesses must:

- Be located in a qualified county or a CEZ.
- Be engaged in manufacturing activities, the conditioning of vegetable seeds, or
- Be engaged in activities performed by research and development laboratories, or commercial testing laboratories but only when the activities performed are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale.
- Invest in one or both of the following activities:
  - The construction of new structures, or expansion or renovation of existing structures to increase floor space or production capacity used for the qualifying activities.
  - The purchase of new industrial and research fixtures, equipment, and support facilities that are integral to the manufacturing or research and development operation.

**What expenses qualify for the program?**

**Machinery and equipment**

To qualify, the machinery and equipment must be new to the business, or, be new to the state (the businesses must move the items to Washington from outside the state).

Eligible machinery and equipment includes:

Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

**Construction**

The lessor or owner of a qualified building can be eligible for a deferral when:

- The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or
- The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

- The lessee agrees in writing with the Department to complete the Annual Tax Incentive Survey required under RCW 82.60.070; and
- The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit or financial arrangement between the lessor or owner of the qualified building and the lessee.

All costs of the investment project, including labor and services performed in the planning, installation, and construction of the project, are used to determine the eligible portion for deferral. If the facility is used partly for qualifying activities and partly for other purposes, the tax deferral shall be determined by apportioning the costs of construction.

Cogeneration facilities that are part of a manufacturing facility qualify on the portion that is used to generate power for on-site consumption.

### **What are the hiring requirements?**

The program's hiring requirements apply only to businesses located in a CEZ.

- The business must hire at least one permanent full-time employee for each \$750,000 of investment for which the deferral is requested.
- The employee must be a resident of the CEZ or the county that contains the CEZ at the time of hiring. A mailing address alone is insufficient documentation to establish that an employee is a resident.
- Eligible persons cannot be hired until after the application is filed with the Department.
- The qualified employment position must be filled by the end of the calendar year following the year in which the project is certified as operationally complete.

If a business does not meet the hiring requirements by the end of the second calendar year following the year in which the project is certified as operationally complete, all deferred taxes are immediately due.

"Operationally complete" means the project is capable of being used for its intended purpose as described in the application.

### **How do I apply for the deferral program?**

You must file an application with the Department of Revenue before a building permit is issued for the project or your business takes possession of the machinery or equipment. Once the application is filed, you can begin construction or taking possession of machinery and equipment.

*The High Unemployment County Application for Sales & Use Tax Deferral and the High Unemployment County Application for Lessor for Sales & Use Tax Deferral are available on our website at <http://dor.wa.gov> under "Get a form or publication."*

The Department must approve or deny applications within 60 days. If approved, a Tax Deferral Certificate will be issued to your business to provide to vendors and contractors at the time of purchase. If denied, you have the right to an informal review of the decision to the Department's Administrative Review and Hearings Division.

### **What does the deferral certificate do?**

To make qualified purchases without payment of sales tax, you provide your vendors or subcontractors with a copy of your deferral certificate. You can purchase the following:

- Construction or expansion of qualified buildings
- Qualified machinery and equipment
- Labor and services rendered in the planning, installation and construction of the project.

The program does not relieve contractors or subcontractors of their obligation to pay sales or use tax on the purchase or rental of tools, equipment, and supplies that are not incorporated into the final project, even though the ultimate cost of the tax is passed on to the person who has been issued the deferral certificate.

### **Can I use the deferral certificate to purchase all my machinery and equipment?**

No. Machinery and equipment that is used directly in the manufacturing operation should be purchased exempt from retail sales or use tax using the Manufacturer's Sales and Use Tax Exemption (M&E) provided by RCW 82.08.02565 and RCW 82.12.02565. These exemptions are separate from the deferral program and do not require an application or Annual Tax Incentive Survey to be filed. Equipment that qualifies under the M&E exemption should not be included on the deferral application.

For information on equipment that qualifies for the M&E exemption, see WAC 458-20-13601 or our online Manufacturing Industry Tax Guide at <http://dor.wa.gov>.

### **When do I need to file the Annual Tax Incentive Survey?**

Each recipient of a deferral, including a lessee who received the benefit through a lessor, must electronically file the survey by May 31st of the year following the calendar year in which the investment project was operationally complete. When the lessee is required to complete the annual survey, the applicant (lessor) is not also required to complete one. Filings continue for the seven succeeding calendar years. Prior to 2016, the due date for the survey was April 30th.

To file a survey, go to our website at [dor.wa.gov](http://dor.wa.gov) and login to My Account. If you don't have an online account with Revenue, click on Join Now and follow the prompts. Once you're logged in, click on Credits & Tax Incentives, then File Tax Incentive Survey/Report and complete the survey.

If a business doesn't complete a survey by the due date, 12.5% of the deferred tax is immediately due.

## When does the Department of Revenue audit the project?

When your application is approved, a deferral certificate will be issued using the estimates from your application. Upon completion of the project, an auditor will verify that you are performing qualified activities at this facility. The auditor will also verify that the approved percentage of your structure and 100 percent of the machinery and equipment are eligible for deferral. Based on his or her findings, your allowable deferral may be adjusted.

To minimize inconvenience and the time it takes to complete an audit, please have the following records for the audit period available for your meeting with the auditor:

- Purchase invoices (i.e., accounts payable, receipts)
- Supporting documentation for the construction, such as construction contracts
- Original Sales and Use Tax Deferral Certificate

Although most audits can be completed with the above records, additional documents may be required during the audit.

## Contractors or vendors

### What do I do with a deferral certificate from my customer?

Not all costs related to building construction or expansions are exempt from sales or use tax under this program. You need to separately state the following for your customer:

- items and services *subject to* sales tax
- items and services *exempt from* sales tax

Then, you need to collect sales tax on the taxable items and services.

The sales tax exemption only applies to that portion of the building used in manufacturing or research and development. If a building is used for other purposes as well – for example, the company headquarters is also located in the building – you need to determine what part of the project is exempt under the deferral. [WAC 458-20-24001](#) provides guidance.

The certificate allows your customer to buy the following goods and services exempt from sales tax:

- Materials that become a permanent component in the construction or expansion of the qualified building such as dimensional lumber, insulation, windows, doors, flooring, bathroom fixtures, lighting, etc.
  - Parking lot materials, such as asphalt, lighting, and cement, if employees who perform manufacturing or research and development use the lot. (Landscaping and most work performed outside the building are subject to sales tax).
- Machinery and equipment, which includes all new industrial and research fixtures. Also includes equipment that is a necessary part of a manufacturing or research and development operation.

Computers, desks, filing cabinets, photocopiers, printers, software, data processing equipment, laboratory equipment, and all equipment used to control or operate machinery is included.

- Does not include machinery and equipment that is exempt from retail sales or use tax under the Manufacturer's Sales and Use Tax Exemption. See discussion under "Can I use my deferral certificate to purchase all my machinery and equipment?"
- Labor and services used in the planning, installation and construction of the project.
  - Does not include demolition work of previous site structures.

You need to pay sales or use tax on your purchase or rental of tools, equipment, and supplies that are not a permanent part of the final project.

### **What do I do with the deferral certificate?**

You must keep a copy of the customer's deferral certificate for five years in case you are audited. Do not send it to the department with your return.

### **Definitions**

**Manufacturing:** means the same as defined in RCW 82.04.120.

"Manufacturing" also includes:

- The activities performed by research and development laboratories;
- The activities performed by commercial testing laboratories; and
- Conditioning of vegetable seeds.

Effective July 1, 2010, computer programming and computer-related services no longer qualify as manufacturing activities and do not qualify for the High Unemployment County Sales and Use Tax **Deferral Program**.

**Research and development:** means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, *but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale*. Commercial sales excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed \$1 million dollars.

**Vegetable seeds:** include the seeds of those crops that are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state. "Vegetable seeds" includes, but is not limited to, cabbage seeds, carrot seeds, onion seeds, tomato seeds, and spinach seeds. Vegetable seeds do not include grain seeds, cereal seeds, fruit seeds, flower seeds, tree seeds, and other similar properties.

**Permanent full-time employee:** must be employed in the eligible investment project during the entire tax year.

**Entire tax year:** means a full-time position that is filled for a period of 12 consecutive months.

**Full-time:** means at least 35 hours a week, 455 hours a quarter, or 1,820 hours a year.

### **Additional information**

- For general information, visit our Tax Incentives page online at <http://dor.wa.gov>.
- See [WAC 458-20-24001](#), Sales and use tax deferral—Manufacturing and research/development activities in high unemployment counties—Applications filed after June 30, 2010.
- For questions regarding the program or completing the application for the deferral, please call our Special Programs Division at (360) 570-3265, option 6.