



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

MAY 11, 2010

## **Purchases of Server Equipment and Power Infrastructure for Use in Eligible Data Centers – Sales/Use Tax Exemption**

### **Summary**

Effective April 1, 2010, Engrossed Substitute Senate Bill (ESSB) 6789 (Chapter 1, Laws of 2010, 1st Special Session) provides a sales and use tax exemption to eligible businesses on purchases of eligible server equipment and power infrastructure for use in eligible computer data centers. Effective May 1, 2010, Second Engrossed Substitute Senate Bill (2ESSB) 6143 (Chapter 23, Laws of 2010, 1st Special Session), Section 16, amends the hiring requirements of ESSB 6789.

### **What is the exemption?**

A sales/use tax exemption provided to owners or lessees of an eligible computer data center on purchases of:

- eligible server equipment to be installed, without intervening use, in an eligible computer data center, and
- labor and services to install eligible server equipment
- eligible power infrastructure, and
- labor and services to construct, install, repair, alter, or improve eligible power infrastructure

### **What is a qualifying business?**

A qualifying business means:

- the owner of an eligible computer data center that is a business entity that exists for the primary purpose of engaging in commercial activity for profit; or
- the lessee of at least 20,000 square feet within an eligible computer data center dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers.

The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

### **What is an eligible data center?**

The facility must be located in rural county as defined in RCW 82.14.370:

- a facility that is comprised of one or more buildings
- with a combined square footage of 100,000 square feet
- which may be comprised of multiple businesses
- constructed or refurbished specifically, and used primarily, to house working servers
- where the server space has not previously been dedicated to housing working servers.

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- The facility must have at least 20,000 square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers; and
- The building permit for construction of the computer data center must be issued between April 1, 2010 and June 30, 2011

The construction of a computer data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space.

For facilities in existence on April 1, 2010, that are expanded, renovated, or otherwise improved between April 1, 2010 and June 30, 2011:

- An eligible computer data center includes only the portion of the computer data center having at least 20,000 square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers.

The facility has the following characteristics:

- Uninterrupted power supplies, generator backup power, or both;
- Sophisticated fire suppression and prevention systems; and
- Enhanced physical security such as restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring pass codes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition or similar security features.

For a computer data center comprised of multiple buildings each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has met all the facility characteristics above.

**What is eligible server equipment?**

“Eligible server equipment” means the original server equipment installed in an eligible computer data center on or after April 1, 2010, and replacement server equipment.

“Replacement server equipment” means server equipment that:

- Replaces existing server equipment, if the sale or use of the server equipment to be replaced originally qualified for an exemption under this program; and
- is installed and put into regular use before April 1, 2018.

Server equipment:

- means the server chassis and all computer hardware contained within the server chassis.
- includes computer software necessary to operate the server.

Server equipment does not include:

- the racks upon which the server chassis is installed
- computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer

**What is eligible power infrastructure?**

Power infrastructure means:

- all fixtures and equipment necessary for the transformation, distribution, or management of electricity
- that is required to operate eligible server equipment within an eligible computer data center

The term includes:

- electrical substations
- generators
- wiring
- cogeneration equipment

**How do I claim the sales tax exemption?**

In order to claim the exemption a business must submit an *Application for Sales Tax Exemption for Purchases by Data Centers* to the Department of Revenue. The Department will issue a *Certificate for Sales Tax Exemption for Purchases by Data Centers* to qualifying businesses. The qualifying business may then present this exemption certificate to the seller who must maintain a copy of the certificate for their files.

**Who does not qualify for this exemption?**

A business is not eligible for this exemption if it has received benefits from the deferral program under chapter 82.60 RCW:

- on the construction, renovation, or expansion of a structure or structures used as a computer data center; or
- machinery or equipment used in a computer data center; and
- any person affiliated with a person who received benefits from the deferral program under chapter 82.60 RCW.

“Affiliated” means that one person has a direct or indirect ownership interest of at least 20 percent in another person.

**What are the hiring requirements for a business with a tax exempt certificate?**

Within six years of the date that the Department issues an exemption certificate to a qualifying business, the qualifying business must establish that net employment at the eligible computer data center has increased by a minimum of:

- 35 family wage employment positions; or
- Three family wage employment positions for each 20,000 square feet of space or less that is newly dedicated to housing working servers at the eligible computer data center.

For qualifying businesses that lease space at an eligible computer data center, the number of family wage employment positions that must be increased is based only on the space occupied by the lessee in the eligible computer data center.

**What are family employment positions?**

Family wage employment positions are defined as:

- New permanent employment positions requiring 40 hours of weekly work
- Full time basis at the eligible computer data center
- Receiving a wage equivalent to or greater than 150 percent of the per capita personal income of the county where the project is located

In addition, the employment position must be entitled to health insurance coverage provided by the employer.

**How do I calculate the net increase in family wage employment positions?**

Family wage employment positions include positions filled by employees of the owner of the eligible computer data center and by employees of qualifying businesses leasing space from the owner of the eligible computer data center.

They may also include positions filled by independent contractors or employees of independent contractors hired by the owner of the data center to perform necessary services.

***Owner of an eligible computer data center***

The owner of an eligible computer data center, in addition to its own net increase in family wage employment positions, may include:

- The net increase in family wage employment positions employed by qualifying businesses leasing space within the eligible computer data center from the owner; and
- The net increase in family wage employment positions described below for independent contractors and employees of independent contractors performing necessary services or work at the eligible data center.

***Lessees of the owner of an eligible computer data center***

Lessees of the owner of an eligible computer data center, in addition to their own net increase in family wage employment positions, may include:

- A portion of the net increase in family wage employment positions employed by the owner; and
- A portion of the net increase in family wage employment positions described below for independent contractors and employees of independent contractors performing necessary services or work at the eligible data center.

The portion of the net increase in family wage employment positions to be counted by each lessee must be in proportion to the amount of space in the eligible computer data center occupied by the lessee compared to the total amount of space in the eligible computer data center occupied by all lessees that are qualifying businesses.

***Independent contractors hired by owner of data center***

Family wage employment positions also include individuals performing work at an eligible computer data center as an independent contractor hired by the owner of the eligible computer data center or as an employee of an independent contractor hired by the owner of the eligible computer data center, if the work is necessary for the operation of the computer data center, such as security and building maintenance, and provided that employment positions meets all of the requirements for a family wage employment position.

**What are the reporting requirements?**

A business claiming an exemption must complete an annual report with the Department following the guidelines of section 103, Chapter 114, Laws of 2010. The annual report is due by April 30th of the year following the calendar year in which the company becomes eligible to claim the sales tax exemption.

The Department will have the report available for taxpayers to file.

If the report is not filed the Department will consider the tax due for the preceding calendar year to be immediately due and payable.

**For more information**

Contact the Department's Telephone Information Center at 1-800-647-7706. You can also visit our Tax Incentives page online at <http://dor.wa.gov>. Under "Quick Clicks," select "Tax incentive programs."