



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JUNE 15, 2012

## High Unemployment County Sales and Use Tax Deferral Program

**Purpose** This Special Notice updates the list of counties that qualify for High Unemployment County Sales and Use Tax Deferral Program beginning July 1, 2012. This list is updated every two years.

**Background** On July 1, 2010, the Rural County Sales and Use Tax Deferral Program was modified to become the High Unemployment County Sales and Use Tax Deferral Program, effective until July 1, 2020. ([WAC 458-20-24001](#)).

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

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

- located in qualifying counties or Community Empowerment Zones (CEZ), 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. To receive the waiver, businesses must:

- Engage in qualified activities during the year the Department certifies the investment project as operationally complete, and the following seven years.
- Electronically file an annual tax incentive survey covering **each calendar year** by April 30 of the following year.
- Have all purchases verified as eligible by an auditor from the Department of Revenue.
- Meet employment requirements if the business located in a CEZ. Employment requirements are explained later in this notice.

This program expires on July 1, 2020.

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For tax assistance or to request this document in an alternate format, visit <http://dor.wa.gov> or call 1-800-647-7706. Teletype (TTY) users may call (360) 705-6718.

## Qualifying for the program

**What 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 following list of eligible counties was published in April 2010 by the Washington State Employment Security Department and applied to applications received from July 1, 2010 – June 30, 2012:

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

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

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

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) 570-3265 option 6 to determine the eligibility of a particular area.

**What Community Empowerment Zones qualify as eligible areas?** All Community Empowerment Zones 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 our website at <http://dor.wa.gov>. Under “Learn about...” select “[Tax incentive programs](#)” and scroll to the bottom of the page where you’ll find CEZ map links.

**What are the business requirements for the 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 activities performed by research and development laboratories, or commercial testing laboratories.
- 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.

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**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).

Qualified 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. Those businesses 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. A project is certified as operationally complete by the Department the date the recipient reports to the Department the project is complete.

## Applying for and completing the program

**How do I apply?** An application must be filed with the Department of Revenue before a building permit is issued for the project or the business takes possession of the machinery or equipment. Once the application is filed, construction or possession of machinery and equipment may begin.

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 is issued to the business to provide to vendors and contractors at the time of purchase. If denied, the business may appeal the decision to the Department’s Appeals Division.

**What does the deferral certificate do?** The deferral certificate allows the business to purchase from vendors and contractors without paying retail sales tax. Sales and use tax may be deferred on three kinds of expenditures:

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

The program is not a comprehensive sale and use tax exemption. It does not relieve contractors or subcontractors of their obligation to pay 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 making the investment.

**Can I use the deferral certificate to purchase all my machinery and equipment?** No. Machinery and equipment that are used directly in the manufacturing operation can 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> under “Get a form or publication,” then select “Industry specific guides.”

**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 April 30th of the year following the calendar year in which the investment project was certified by the Department as operationally complete. Filings continue for the seven succeeding calendar years.

“Operationally complete” means the project is capable of being used for its intended purpose as described in the application. A project is certified as operationally complete by the Department the date the recipient reports to the Department the project

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is complete. If the Department receives notice from the recipient on December 31, 2012, stating they are operationally complete in 2012, then the recipient must file the 2012 Annual Tax Incentive Survey and surveys for the next seven years.

If a business fails to complete a survey by the due date, 12.5 percent of the deferred tax is immediately due plus applicable interest.

The Annual Tax Incentive Survey is available from the Department through our electronic filing system, "My account." Log into or register for "My account" at <http://dor.wa.gov>.

### **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.

### **Definitions**

**Manufacturing:** means the same as defined in [RCW 82.04.120](#). "Manufacturing" also includes:

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

**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.

**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.

### **For more information**

For questions regarding the application, contact the Department's Special Programs Division at (360) 570-3265 option 6.

You can also visit our [Tax Incentives page](#) at <http://dor.wa.gov>. Under "Learn about..." select "Tax incentive programs."