



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JULY 27, 2015

Tax Exemptions Extended for Certain Purchases by Eligible Data Centers and Their Tenants

The sales and use tax exemptions provided by [RCW 82.08.986](#) and [82.12.986](#) have been extended for eligible data centers that begin construction on or after July 1, 2015, but before July 1, 2025. The exemptions apply to purchases by eligible data centers and their qualified tenants of server equipment, power infrastructure and the labor to install them. The exemptions also apply to purchases of eligible replacement server equipment put into regular use within twelve years of the date on the certificate of occupancy.

Data centers which began construction after March 31, 2012, but before July 1, 2015, and their qualified tenants also received an extension of the sales and use tax exemption on the purchase and installation of replacement servers until April 1, 2024.

(Engrossed Substitute Senate Bill ([ESSB 6057](#)), Part 3, Chapter 6, Laws of 2015)

What is the exemption?

It is a sales or use tax exemption provided to owners or qualifying tenants of an eligible computer data center on purchases of:

- Eligible server equipment and replacement server equipment installed, without intervening use, in an eligible computer data center, and the labor and services required to install it.
- Eligible power infrastructure and the labor and services required to construct, install, repair, alter, or improve it.

How do I claim the sales tax exemption?

To claim the exemption a business must submit an [Application for Sales Tax Exemption for Purchases by Data Centers](#) to the Department of Revenue (department). The department will issue a Certificate for Sales Tax Exemption for Purchases by Data Centers to qualifying businesses.

The qualifying business must present this exemption certificate to the seller who must keep a copy for their files.

What is an eligible data center?

An eligible data center is one that:

- Is located in a [rural county](#) as defined in RCW [82.14.370](#);
- Has at least 20,000 square feet of space newly dedicated to housing working servers;
- Was or will be constructed:
 - After March 31, 2010, and before July 1, 2011;
 - After March 31, 2012, and before July 1, 2015; or
 - After June 30, 2015, and before July 1, 2025.

A computer data center with one building or more than one building must have a combined square footage of at least 100,000 square feet.

“Building” means a fully enclosed structure with a weather resistant exterior wall envelope or concrete or masonry walls designed in accordance with the requirements for structures under chapter 19.27 RCW. This definition of “building” only applies to computer data centers which began construction on or after July 1, 2015.

Are there limits on how many data centers can receive the exemptions?

Yes, only twelve data centers that begin construction on or after July 1, 2015, but before July 1, 2025, can be approved for the exemption. Of the twelve, only eight centers can be approved that begin construction on or after July 1, 2015, but before July 1, 2019.

Tenants of qualified data centers do not count towards the data centers limit.

The exemption is available on a first-in-time basis based on the date the application for the sales tax exemption is received by the department. Exemption certificates will expire two years after the date of issuance, unless construction of the data center has begun.

What does it mean to begin construction?

Construction on a data center begins the day that a building permit is issued for the construction of the actual building (under the building code adopted in RCW [19.27.031](#)) for:

- A new computer data center.
- The expansion, renovation, or other improvements of an existing facility, even if the space is leased or rented.

It does not include soil testing, site clearing and grading, site preparation, or related activities that occur before the building permit is issued. It also does not include a specialty permit issued for plumbing, electric, HVAC, etc.

What is a “computer data center?”

“Computer data center” means a facility with one or more “buildings” (defined below), which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has all the following characteristics:

- uninterruptible 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;
 - electronic system requiring passcodes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or
 - similar security features.

If a computer data center has 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 all of the characteristics listed above and meets the requirements under “What is an eligible data center?”

“**Building**” means a fully enclosed structure with a weather resistant exterior wall envelope or concrete or masonry walls designed in accordance with the requirements for structures under chapter 19.27 RCW. This definition of “building” only applies to computer data centers which began construction on or after July 1, 2015.

Who is a qualifying tenant?

A qualifying tenant is a business:

- Existing for the primary purpose of engaging in commercial activity for profit, and is
- Leasing space from a qualifying business within an eligible computer data center.

The following are not qualifying tenants:

- State or federal government or any of their departments, agencies, and institutions;
- Tribal governments;
- Political subdivisions of this state;
- Municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state;
- A business leasing space in an eligible computer data center constructed after March 31, 2010, and before July 1, 2011, if the lessee and lessor are affiliated and:
 - That space will be used by the lessee to house server equipment that replaces server equipment previously installed and operated in that eligible computer

- data center by the lessor or another person affiliated with the lessee; or
- Prior to May 2, 2012, the primary use of the server equipment installed in that eligible computer data center was to provide electronic data storage and data management services for the business purposes of the lessor, persons affiliated with the lessor, or both.

Being affiliated means that one person (business entity, etc.) has a direct or indirect ownership interest of at least twenty percent in another person.

What is server equipment?

Server equipment is computer hardware located in an eligible computer data center used exclusively to provide electronic data storage and data management services for:

- The owner or lessee of the computer data center, and/or
- For clients of the owner or lessee of the computer data center.

It also includes computer software necessary to operate the computer hardware.

It *does not* include:

- Personal computers;
- The racks upon which the server equipment is installed;
- Computer peripherals such as keyboards, monitors, printers, and mice.

What is eligible server equipment?

Eligible server equipment means:

- **For data centers constructed after March 31, 2010, and before July 1, 2011**
 - The original server equipment installed in the 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 existing equipment qualified for an exemption under this section or RCW [82.12.986](#);
 - and
 - Is installed and put into regular use before April 1, 2018.
- **For data centers constructed after March 31, 2012, and before July 1, 2015**
 - The original server equipment installed in an eligible computer data center on or after April 1, 2012, and replacement server equipment.

“Replacement server equipment” means server equipment that:

- Replaces existing server equipment, if the sale or use of the existing equipment qualified for an exemption under this section or RCW [82.12.986](#); and
- Is installed and put into regular use before April 1, 2024.

- **For data centers constructed after June 30, 2015, and before July 1, 2025**

- The original server equipment installed in a building within an eligible computer data center on or after July 1, 2015, and replacement server equipment.

Server equipment installed in movable or fixed stand alone, prefabricated, or modular units, including intermodal shipping containers, is not eligible for the sales or use tax exemption. These structures are not “buildings” as defined for these exemptions. Therefore, the servers are not directly installed in a building.

“Replacement server equipment” means server equipment that:

- Replaces existing server equipment, if the sale or use of the existing equipment qualified for an exemption under this section or RCW [82.12.986](#); and
- Is installed and put into regular use within twelve years of the date on the Certificate of Occupancy.

What is eligible power infrastructure?

Eligible power infrastructure is the fixtures and equipment owned by a qualifying data center or qualifying tenant necessary to transform, distribute or manage the electricity needed to operate eligible server equipment.

This includes generators, wiring, cogeneration equipment, and associated fixtures; electrical switches and batteries; and distribution, testing, and monitoring equipment. Substations are not eligible power infrastructure.

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

Within six years of the issue date on the department’s Certificate for Sales Tax Exemption for Purchases by Data Centers, the qualifying data center must establish that net employment has increased by a minimum of:

- Thirty-five 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 tenants, the increase of family wage jobs is based only on the space occupied by the qualifying tenant.

Businesses that do not meet the hiring requirements will immediately owe any exempted sales or use tax.

For more information, regarding family wage positions and calculating the net increase in employment positions, see RCW [82.08.986](#).

Who does not qualify for this exemption?

A business is not eligible for this exemption if it, or any person affiliated with it, benefits at any time from the deferral program under Chapter [82.60](#) RCW.

Being affiliated means that one person (business entity, etc.) has a direct or indirect ownership interest of at least twenty percent in another person.

If we determine a business is not eligible for exemptions taken under RCW 82.08.986, the business must repay any sales or use tax exempted under this program plus interest.

What are the buyer's reporting requirements?

Annual Tax Performance Report

A business claiming this exemption must electronically file an Annual Tax Performance Report (beginning July 1, 2015) with the department. The Annual Tax Performance Report is due by May 31 of the year following the calendar year in which the company claims the sales tax exemption.

If the Annual Tax Performance Report is not filed, the department will consider the tax for the preceding calendar year to be immediately due and payable. For more information, see RCW [82.32.534](#).

Buyer's Sales and Use Tax Preference Addendum

Buyers are also required to complete the Buyer's Sales and Use Tax Preference Addendum in e-file when filing their excise tax returns. From the drop down menu, select "Server and power infrastructure equipment for Data Centers."

What are the seller's reporting requirements?

Recordkeeping requirements

The department will issue a Certificate for Sales Tax Exemption for Purchases by Data Centers to qualifying businesses. The qualifying business must present this exemption certificate to the seller who must keep a copy for their files for up to five years.

Filing your excise tax return

When completing the excise tax return, the seller must report the amount of the sale that is exempt from sales tax as a deduction under the Retail Sales Tax section. The deduction should be itemized as "Sales of Data Center Server/Power Equip." When calculating the Retailing B&O tax, no such deduction is allowed.

Questions?

- You'll find more information under Rural County Incentives on our [Tax Incentives](#) web page at <http://dor.wa.gov>.
- If you have questions, call our Telephone Information Center at 1-800-647-7706.