

# Clean Technology Application for Sales and Use Tax Deferral for Lessor - RCW 82.89

Effective July 1, 2022

See complete instructions on page 6.

## 1 Business applying for clean technology deferral

Name:

Mailing address:

City:

State:

Zip:

Phone:

Tax reporting number (WA):

## 2 Contact person information (All correspondence will be directed to this person)

Name:

Mailing address:

City:

State:

Zip:

Phone:

Email:

**Please check one:**

Lessee's business is new to Washington

Lessee's business is expanding within Washington

## 3 Location of investment project

**Important:** This is the address and parcel number of the deferral project you are applying for on this form. If the address is unknown at the time of application, please provide as soon as the address is known. Your application will not be approved until you can provide a valid address for the deferral investment project.

**All taxes will be due if your deferral project is at another location/address.** Contact us if you have any questions.

County:

Address:

City:

State:

Zip:

Parcel number:

Detailed project description (for example, new structure, expanding 1st floor, etc.):

## 4 Lessee information

Name of lessee:

Mailing address:

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Tax reporting number:

1. Do the lessee and lessor have 100% same ownership?    Yes    No  
If yes, please provide documentation to substantiate the relationship.
2. If the answer to question 1 is no, has the lessor agreed by written contract to pass the economic benefit of the deferral to the lessee?    Yes    No

(Please attach a completed Lessee’s Application, if applicable, and a copy of the lease agreement reflecting the economic benefit of the deferred tax is passed onto the lessee by any type of payment, credit, or other financial arrangement between the lessor and qualified lessee.)

**Please have the lessee sign the following statement. Failure to do so will prevent approval of the application.**

I agree to file an annual tax performance report with the Department of Revenue by May 31st for eight years, beginning with the first calendar year after the calendar year in which the investment project is certified by the department as operationally complete.

Printed name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

## 5 Apportionment of structure

If the facility is used partly for manufacturing and partly for other purposes, the applicable tax deferral will be determined by apportioning the costs of construction. (Not all of these categories qualify for the deferral.)

3. Percentage of facility devoted to (use whole numbers):

Area	Percentage
Accounting/payroll	%
Administration	%
Cafeteria	%
Common areas	%
Conference & training rooms	%
Customer service	%
Manufacturing	%
Plant offices used by direct line supervisors or other managers who oversee the manufacturing process	%

Area	Percentage
Reception area	%
Research & development	%
Sales & marketing	%
Warehouse	%
Other (please describe)	%

**Total:** %

## 6 Estimated investment project costs

Please include only those costs that will be paid for by the applicant.

### 4. Structure:

Date building permit will be issued:

Construction of new structure(s): \$

Leasehold improvements paid for by applicant: \$

Expansion or renovation to expand floor space or production capacity: \$

Total structure costs: \$

### 5. Machinery & equipment:

Date equipment is to be installed:

Purchase price: \$

Lease contract price: \$

Fair market value of previously owned machinery and equipment that is new to the state of Washington: \$

Total machinery & equipment costs: \$

**6. Total costs (structure, machinery equipment):** \$

### 7. Estimated completion date:

## 7 Business activity to be conducted at this facility

If additional space is needed to answer question 8, please attach additional pages.

8. Describe the lessee's manufacturing activity at this facility:

## 9. Qualifying activity at this facility (check all that apply):

Clean technology manufacturing operation (see definition).

Facilities to produce clean alternative fuels, subject to the limitations, renewable hydrogen, green electrolytic hydrogen, or green hydrogen carriers.

Storage facilities (see definitions).

## 10. Do you plan to use apprenticeship programs or procure or contract with women, minority, or veteran-owned businesses for construction or operation of the project?

*If you select Yes to question 10, once you receive the deferral certificate number from Department of Revenue (DOR), you must also submit an initial application to the Department of Labor & Industries (L&I) for [Clean Energy Labor Standards Certification](#) prior to the initiation of construction.*

Yes      No

## 11. What percentage reduction in the amount of state sales and use tax to be repaid do you plan to

pursue?      50%      75%      100%

## 8 Employment information

## 12. Average number of full time equivalents (FTEs) for previous calendar year.

(1,820 annualized hours worked = 1 FTE)

Lessee's entire business:

At this facility:

## 13. Estimated number of new FTEs as a result of this project:

## 14. Estimated wages of employees as a result of this project:

## 9 Use of facility

All businesses must maintain a qualified activity at the site of the investment project for the year in which the investment project is certified as operationally complete by Department of Revenue, plus eleven additional years.

**If the clean technology qualifying activity is not maintained, all or a portion of the deferred taxes outstanding for this investment will be immediately due.** The Department of Revenue will assess interest at the rate provided for delinquent excise taxes, but not penalties, retroactively to the date of the deferral.

## 15. Does the lessee plan to operate this investment project in a qualified manner for 12 years from the time the project is complete?

Yes      No

## 16. If the answer to question 15 is "No", how long does the lessee plan to operate this investment project with qualified use?

## 10 Audit records location

If 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. They will also verify that the approved percentage of your structure and 100% of the machinery and equipment are eligible for the deferral. The auditor may adjust the allowable deferral based on his or her findings. You will be billed for any purchases that do not qualify for the deferral and you did not pay tax at the time of purchase, plus applicable interest.

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

- Purchase invoices (for example, 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.

**Please complete the following information about the contact person and audit records location if this information is currently available:**

17. Contact person:

18. Phone:

19. Location of audit records:

## 11 Statute of limitations

The schedule for the deferral/waiver/repayment of taxes deferred under this program on the purchase of goods or services is governed under the repayment provisions of RCW 82.89. With respect to any taxes you defer under this program, the statute of limitations period under RCW 82.32.050(4) does not commence until the close of the tax year in which you incur a tax liability to repay any of the taxes deferred. Thus, the statute of limitations period under RCW 82.32.050(4) will not begin to run until the Department of Revenue is aware of a failure to meet the requirements of the deferral.

Check here to acknowledge that you have read and understand the legal requirements described above.

## 12 Closing questions

How did you hear about deferrals?

## 13 Confidential Tax Information Authorization

Both the applicant and lessee listed on this application need to complete, sign and return a [Confidential Tax Information Authorization form](#) as part of the application process.

The form can be submitted as part of the application or emailed separately to [DORdeferrals@dor.wa.gov](mailto:DORdeferrals@dor.wa.gov).

## 14 Signatures

I certify under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

Applicant's signature:

Title:

Printed name:

Date:

### What to do next:

#### Mail or email to:

Department of Revenue Audit Division

Refund & Deferral Unit

PO Box 47474

Olympia, WA 98504-7474

Email: [DORdeferrals@dor.wa.gov](mailto:DORdeferrals@dor.wa.gov)

### Questions?

For questions about deferrals, please email [DORDeferrals@dor.wa.gov](mailto:DORDeferrals@dor.wa.gov) or call our Deferral Program Lead at 360-534-1443.

## General instructions

**Filing:** This application must be submitted to the Washington State Department of Revenue prior to the date a building permit is issued and/or prior to the acquisition of machinery and/or equipment within Washington state. The deferral application is located at [dor.wa.gov](http://dor.wa.gov). Applications cannot be accepted after December 31, 2032

**Eligible investment project** means an investment project of at least \$2,000,000 in either qualified buildings or qualified machinery and equipment, or both for any of the following new, renovated, or expanded:

- Manufacturing operations
- Facilities to produce clean fuels, renewable hydrogen, green electrolytic hydrogen, or green hydrogen carriers, or
- Storage facilities

**Green electrolytic hydrogen** means hydrogen produced through electrolysis and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

**Green hydrogen carrier** means a chemical compound, created using electricity or renewable resources as energy input and without use of fossil fuel as a feedstock, from renewable hydrogen or green electrolytic hydrogen for the purposes of transportation, storage, and dispensing of hydrogen.

**Manufacturing operation** means manufacturing tangible personal property exclusively incorporated as an ingredient or component of or used in the generation of:

- Passenger cars, light duty trucks, medium duty passenger vehicles, buses, commercial vehicles as defined in RCW 46.04.140, or motorcycles that emit no exhaust gas from the onboard source of power, other than water vapor;
- Charging and fueling infrastructure for electric, hydrogen, or other vehicle types that emit no exhaust gas from the onboard source of power, other than water vapor;

- Renewable and green electrolytic hydrogen, including preparing renewable and green electrolytic hydrogen for distribution or converting it to a green hydrogen carrier;
- Clean fuel with associated greenhouse gas emissions not exceeding 80 percent of the 2017 levels;
- Electricity from renewable resources; or
- Storage facilities.

**Qualified buildings** means construction of new buildings, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing.

**Qualified machinery and equipment** means all new industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation.

**Use/report requirements:** All businesses must complete an annual tax performance report for the first year after the project is operationally complete through the end of the year the final repayment occurs. It is due May 31st per RCW 82.32.534. In addition, all businesses must continue the qualified clean technology activity at the site until all deferred taxes are repaid. If the qualified clean technology activity is not maintained, all or a portion of the deferred taxes outstanding for this investment project will be immediately due.

**Certificate Use:** The deferral certificate is valid only for qualifying purchases by the Certificate Holder at the investment project. The Certificate Holder and approved address are both stated on the certificate. Other purchases may not qualify for the deferral.

**Construction requirements:** Meaningful construction must begin within two years of receiving a deferral certificate unless construction was delayed due to circumstances beyond the recipient's control. Lack of funding is not beyond the recipient's control. "Meaningful construction" means an active construction site, where excavation of a building site, laying of a building foundation, or other tangible signs of construction are taking

place and that clearly show a progression in the construction process at the location designated by the taxpayer in the application for deferral. Planning, permitting, or land clearing before excavation of the building site, without more, does not constitute “meaningful construction.” If the recipient does not begin meaningful construction within two years of receiving a deferral certificate, the deferral certificate is invalid and taxes deferred are due immediately.

If the eligible investment project is not operationally complete within five calendar years from the issuance of the deferral certificate, the deferral certificate is invalid and taxes deferred are due immediately.

“**Renewable resource**” means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

**Storage facility** means a facility that:

- Accepts electricity as an energy source and uses a chemical, thermal, mechanical, or other process to store energy for subsequent delivery or consumption in the form of electricity; or
- Stores renewable hydrogen, green electrolytic hydrogen, or green hydrogen carrier for subsequent delivery or consumption.

**Manufacturer’s equipment exemption:** Sales and use taxes often do not apply to machinery and equipment used in manufacturing operations. See the publication at [dor.wa.gov](http://dor.wa.gov) titled [Manufacturer’s Sales and Use Tax Exemption](#) for details. Machinery and equipment that qualifies under the exemption should not be included on the deferral application.

**Buyer’s Sales and Use Tax Preference Addendum:** Taxpayers using this deferral program are required to complete the Buyer’s Sales and Use Tax Preference Addendum in My DOR when filing their Excise Tax Returns. The addendum is found by selecting “Yes” under “Do you need to file a Buyer’s Sales and Use Preference Addendum?” on the Summary page of

the return. (RCW 82.32.808).

**Repayment of taxes:** This deferral must be repaid. The deferred tax is repaid in ten equal payments beginning on December 31st of the second calendar year after the project is operationally complete, with the remaining payments due on December 31st for each of the following nine years.

If the project is used for purposes other than a qualified use at any time, all or a portion of deferred taxes is immediately due.

**Potential Reduction of Repayment of Taxes:** The state portion of taxes may be reduced if certain requirements are met. You must apply for the reduction from [L&I](#).

#### 50% reduction requirements -

- L&I certification the project includes the following:
  - o Procurement from and contracts with women, minority, or veteran-owned businesses;
  - o Procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations;
  - o Apprenticeship utilization; and
  - o Preferred entry for workers living in the area where the eligible investment project is located.
- If built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard.

#### 75% reduction requirements –

- L&I certification the project includes the following:
  - o Meets the 50% reduction requirements.



- o And compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries.

## **100% reduction requirements –**

- L&I certification the eligible investment project is developed under a community workforce agreement or project labor agreement.

Once you have received your DOR deferral certificate number, you need to apply to L&I to get a reduction of tax. You should apply prior to initiation of construction of your project. For more information, and to apply for reduction of taxes, go to [L&I's website](#).

## **Interest and/or penalties:**

- Interest may not be charged on any taxes deferred under this chapter for the period of deferral. All other penalties and interest applicable to delinquent payments may be assessed.
- The department must assess interest at the rate provided for delinquent taxes, but not penalties, retroactively to the date of deferral for a recipient who must repay deferred taxes because a purchase is not eligible for tax deferral.