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BEFORE THE ADMINISTRATIVE REVIEW AND HEARINGS DIVISION  
DEPARTMENT OF REVENUE  
STATE OF WASHINGTON

In the Matter of the Petition for Refund	)	<u>D E T E R M I N A T I O N</u>
	)	
	)	No. 16-0276
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...	)	Registration No. ...
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RCW 82.08.962; RCW 82.08.020 – RETAIL SALES TAX: MACHINERY AND EQUIPMENT USED TO GENERATE ELECTRICITY FROM RENEWABLE ENERGY. Repair parts required to restore power generating equipment to its normal working condition, which do not increase productivity beyond what would normally be produced by the equipment, are not eligible for the exemption.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

Fisher, T.R.O. – A wind farm seeks administrative review of a denial of its request to refund retail sales tax, asserting the tax was paid on tax exempt machinery and equipment used in generating electricity. We deny the petition.<sup>1</sup>

ISSUE

Whether, under RCW 82.08.962, a wind farm owes retail sales tax on replacement pad mount transformers used to convert wind energy into electricity.

FINDINGS OF FACT

Taxpayer is a wind farm in Washington. Taxpayer has ... wind turbines set up. Each turbine is a tower with a generator and blades. The wind turns the blades, which then turn the generator. The generator produces energy, which goes down the tower and into a pad mount transformer located on the ground next to the wind turbine. The pad mount transformer is required to transform the energy into electricity and to send the electricity to the power grid. Once the pad mount transformer transforms the electricity, the electricity goes through the power grid to a balancing authority, who will sell the electricity to power companies or end user customers.

When Taxpayer set up the turbines, it originally ordered [extra] pad mount transformers. This way, if one failed or needed to be taken out of service, there would be replacement pad mount transformers to ensure there was no “wind time,” or time spent generating power from wind, that

<sup>1</sup> Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

was lost. As Taxpayer operated its wind farm, it used the three surplus pad mount transformers while repairing operating pad mount transformers. Ultimately, Taxpayer purchased new pad mount transformers in 2015.

Taxpayer sought a refund of the retail sales tax paid on the pad mount transformers it purchased in 2015. Included in the application were diagrams of the pad mount transformers labeled “[Taxpayer] WIND REPLACEMENT.” The Department of Revenue (“Department”) denied the refund request.

Taxpayer timely sought administrative review, asserting the pad mount transformers are equipment used directly in generated electricity by wind energy under RCW 82.08.962(3)(a). Taxpayer argues that the pad mount transformer is not a replacement part, but rather a completely new piece of equipment to transform the electricity from the turbines to the power grid. Taxpayer additionally argues that the pad mount transformer extends the useful life of the turbines as a group, and that without the new pad mount transformer the wind turbines’ useful lives would have already ended.

#### ANALYSIS

RCW 82.08.020 imposes a retail sales tax on any retail sale of tangible personal property. RCW 82.08.962 allows purchasers of machinery and equipment used in generating wind energy technology an exemption from retail sales tax if the purchaser uses such machinery or equipment to develop a facility capable of generating one thousand watts of electricity or more.<sup>2</sup> Under RCW 82.08.962(1)(c), the exemption is equal to seventy-five percent of the retail sales tax paid on the machinery and equipment.

“Machinery and equipment” is defined as “fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using . . . wind . . . energy . . . as the primary source of power.” RCW 82.08.962(2)(d)(i). Excluded from the definition of “machinery and equipment” are “repair parts required to restore machinery and equipment to normal working order [and] replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment.” RCW 82.08.962(2)(d)(ii)(C)-(D).

Taxpayer asserts that the pad mount transformers are machinery and equipment within the meaning of RCW 82.08.962(2)(d)(i). We do not agree. First, the pad mount transformers at issue are used when the pad mount transformers installed in wind turbines out in the wind farm malfunction and need to be replaced or fixed in order to avoid losing wind time. These are replacement pad mount transformers that ensure the wind turbines continue to collect electricity at the same rate as the regular pad mount transformers and are required to restore the malfunctioning wind turbines to their normal condition, i.e. able to convert energy from the generators to electricity capable of traveling along the power grid. Our conclusion that these pad mount transformers are replacement parts is supported by the fact that the designs for the

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<sup>2</sup> Taxpayer asserts, and the Department does not dispute, that Taxpayer’s facility generates more than one thousand watts of electricity.

transformers are labeled “[Taxpayer] WIND REPLACEMENT.”<sup>3</sup> These pad mount transformers are thus repair parts required to restore equipment (the wind turbines) to normal working order, and are excluded from the definition of machinery and equipment for the purposes of the exemption. RCW 82.08.962(2)(d)(ii)(C).

Second, the pad mount transformers are bought to maintain the wind turbines in working condition; they do not improve the efficiency or the useful life of the wind turbines above and beyond what the turbines would be with a functioning pad mount transformer. While Taxpayer may be correct in that without the pad mount transformer the turbines will not work, the same could be said for the blades or the generators on the turbines. Taxpayer’s argument would extend the exemption beyond the plain language of the statute. The statute grants exemptions to tangible personal property that improves the productivity, efficiency, or useful life of machinery and equipment used to generate electricity; here, the pad mount transformers do not improve the productivity, efficiency, or useful life of the wind turbines, but rather they enable the wind turbines to work again. Accordingly, the pad mount transformers are also excluded from the definition of machinery and equipment for the purposes of the exemption. RCW 82.08.962(2)(d)(iii)(D).

#### DECISION AND DISPOSITION

Taxpayer’s petition is denied.

Dated this 30th day of August, 2016.

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<sup>3</sup> Taxpayer asserts that this was done by the vendor from whom Taxpayer purchased the pad mount transformers, and that Taxpayer was more concerned with whether the pad mount transformers’ specifications displayed in the diagrams would work in the existing wind turbines and was not concerned with the label of the diagrams. In light of the fact that these pad mount transformers are used when another pad mount transformer fails or is taken out of service, we find it more likely that the labels reflect that these pad mount transformers are actually replacement parts than mistakes in the diagrams.