

RCW 82.08.993 Exemptions—Fuel cell electric vehicles—Report to the legislature. (Expires June 30, 2029.)

(1) (a) Subject to the limitations in this subsection, beginning July 1, 2022, with sales made or lease agreements signed on or after this date until the expiration of this section, 50 percent of the tax levied by RCW 82.08.020 does not apply to sales or leases of new electric passenger cars, light duty trucks, and medium duty passenger vehicles, that are powered by a fuel cell.

(b) (i) By the end of the fifth working day of each month, until the expiration of the exemption as described in (c) of this subsection, the department must determine the cumulative number of vehicles that have claimed the exemption as described in (a) of this subsection.

(ii) The department of licensing must collect and provide, upon request, information in a form or manner as required by the department to determine the number of exemptions that have been claimed.

(c) The exemption under this section expires after the last day of the calendar month immediately following the month the department determines that the total number of vehicles exempt under (a) of this subsection reaches 650. All leased vehicles that qualified for the exemption before the expiration of the exemption must continue to receive the exemption as described under (a) of this subsection on lease payments due through the remainder of the lease.

(d) The department must provide notification on its website monthly on the amount of exemptions that have been applied for, the amount issued, and the amount remaining before the limit described in (c) of this subsection has been reached, and, once that limit has been reached, the date the exemption expires pursuant to (c) of this subsection.

(e) A person may not claim the exemption under this subsection if the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

(f) The per vehicle exemption must be based on the sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles.

(2) (a) Subject to the limitations in this subsection (2), beginning July 1, 2022, with sales made or lease agreements signed on or after this date until the expiration of this section, the entire tax levied by RCW 82.08.020 does not apply to the sale or lease of used electric passenger cars, light duty trucks, and medium duty passenger vehicles, that are powered by a fuel cell.

(b) The per vehicle exemption must be based on the sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles. However, the maximum value amount eligible for the exemption under (a) of this subsection is the lesser of either \$16,000 or the fair market value of the vehicle.

(c) A person may not claim the exemption under this subsection (2) if the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

(3) (a) For qualifying vehicles sold by a person licensed to do business in the state of Washington, the seller must keep records necessary for the department to verify eligibility under this section. The seller reporting the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; sales price for

purchased vehicles and fair market value at the inception of the lease for leased vehicles; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(b) For vehicles purchased from (i) a seller that is not licensed to do business in the state of Washington, or (ii) a private party, the buyer must keep records necessary for the department to verify eligibility under this section. The buyer claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; date of sale; sales price; and the total amount qualifying for the incentive claimed for each vehicle. This information must be provided in a form and manner prescribed by the department.

(4) (a) The department of licensing must maintain and publish a list of all vehicle models qualifying for the tax exemptions under this section and RCW 82.12.817 until the expiration of this section, and is authorized to issue final rulings on vehicle model qualification for these criteria.

(b) The department of revenue retains responsibility for determining whether a vehicle meets the applicable qualifying criterion under subsections (1) and (2) of this section.

(5) By the last day of August 2023, and annually thereafter until this section expires, based on the best available data, the department must report the following information to the transportation committees of the legislature: The cumulative number of fuel cell electric vehicles that qualified for the exemptions under this section and RCW 82.12.817 by month of purchase or lease start and vehicle make and model; the dollar amount of all state retail sales and use taxes exempted on or after the qualification period start date, under this section and RCW 82.12.817; and estimates of the future costs of leased vehicles that qualified for the exemptions under this section and RCW 82.12.817.

(6) (a) Sales of vehicles delivered to the buyer after the expiration of this section, or leased vehicles for which the lease agreement was signed after the expiration of this section, do not qualify for the exemptions under this section.

(b) All leased vehicles that qualified for the exemption under this section before the expiration of this section must continue to receive the exemption on any lease payments due through the remainder of the lease.

(7) For the purposes of this section:

(a) "Fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(b) "Fuel cell" means a technology that uses an electrochemical reaction to generate electric energy by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c) "New vehicle" has the same meaning as "new motor vehicle" in RCW 46.04.358.

(d) "Selling price" and "sales price" have the same meaning as in RCW 82.08.010.

(e) "Used vehicle" has the same meaning as in RCW 46.04.660.

(8) This section expires June 30, 2029. [2022 c 182 § 303; 2021 c 171 § 2.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Tax preference performance statement—2021 c 171: "This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3, chapter 171, Laws of 2021. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of hydrogen fuel cell electric vehicles in Washington as another way of promoting clean alternative fuel vehicle adoption in the state. It is the legislature's intent to establish an eight-year pilot tax incentive program for fuel cell electric vehicles by creating a temporary partial sales and use tax exemption on fuel cell electric vehicles in order to reduce the price charged to customers and to evaluate the feasibility of wider adoption of the use of fuel cell electric technology in transportation.

(3) Since the tax incentive created in sections 2 and 3 of this act is limited to eight years, the joint legislative audit and review committee must, within the committee's appropriations, evaluate the effectiveness of this tax incentive on the number of hydrogen fuel cell vehicles titled in the state by November 1, 2028.

(4) The department of licensing and the department of revenue must, within the departments' respective appropriations, provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary." [2021 c 171 § 1.]

Effective date—2021 c 171: "Sections 1 through 3 of this act take effect July 1, 2022." [2021 c 171 § 4.]