
SENATE BILL 6481

State of Washington 60th Legislature 2008 Regular Session

By Senators Benton, Schoesler, Hewitt, McCaslin, Delvin, Morton, Stevens, Swecker, Pflug, and Roach

Read first time 01/17/08. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to excluding the value of rebates from sales and
2 use taxation; amending RCW 82.08.010 and 82.08.010; providing an
3 effective date; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.08.010 and 2007 c 6 s 1301 are each amended to read
6 as follows:

7 For the purposes of this chapter:

8 (1) "Selling price" includes "sales price." "Sales price" means
9 the total amount of consideration, except separately stated trade-in
10 property of like kind, including cash, credit, property, and services,
11 for which tangible personal property, extended warranties, or services
12 defined as a "retail sale" under RCW 82.04.050 are sold, leased, or
13 rented, valued in money, whether received in money or otherwise. No
14 deduction from the total amount of consideration is allowed for the
15 following: (a) The seller's cost of the property sold; (b) the cost of
16 materials used, labor or service cost, interest, losses, all costs of
17 transportation to the seller, all taxes imposed on the seller, and any
18 other expense of the seller; (c) charges by the seller for any services

1 necessary to complete the sale, other than delivery and installation
2 charges; (d) delivery charges; and (e) installation charges.

3 When tangible personal property is rented or leased under
4 circumstances that the consideration paid does not represent a
5 reasonable rental for the use of the articles so rented or leased, the
6 "selling price" shall be determined as nearly as possible according to
7 the value of such use at the places of use of similar products of like
8 quality and character under such rules as the department may prescribe.

9 "Selling price" or "sales price" does not include: Discounts,
10 including cash, term, or coupons that are not reimbursed by a third
11 party that are allowed by a seller and taken by a purchaser on a sale;
12 interest, financing, and carrying charges from credit extended on the
13 sale of tangible personal property, extended warranties, or services,
14 if the amount is separately stated on the invoice, bill of sale, or
15 similar document given to the purchaser; a rebate given by a
16 manufacturer and assigned to a seller by a buyer; and any taxes legally
17 imposed directly on the consumer that are separately stated on the
18 invoice, bill of sale, or similar document given to the purchaser;

19 (2)(a) "Seller" means every person, including the state and its
20 departments and institutions, making sales at retail or retail sales to
21 a buyer, purchaser, or consumer, whether as agent, broker, or
22 principal, except "seller" does not mean:

23 (i) The state and its departments and institutions when making
24 sales to the state and its departments and institutions; or

25 (ii) A professional employer organization when a covered employee
26 coemployed with the client under the terms of a professional employer
27 agreement engages in activities that constitute a sale at retail that
28 is subject to the tax imposed by this chapter. In such cases, the
29 client, and not the professional employer organization, is deemed to be
30 the seller and is responsible for collecting and remitting the tax
31 imposed by this chapter.

32 (b) For the purposes of (a) of this subsection, the terms "client,"
33 "covered employee," "professional employer agreement," and
34 "professional employer organization" have the same meanings as in RCW
35 82.04.540;

36 (3) "Buyer," "purchaser," and "consumer" include, without limiting
37 the scope hereof, every individual, receiver, assignee, trustee in
38 bankruptcy, trust, estate, firm, copartnership, joint venture, club,

1 company, joint stock company, business trust, corporation, association,
2 society, or any group of individuals acting as a unit, whether mutual,
3 cooperative, fraternal, nonprofit, or otherwise, municipal corporation,
4 quasi municipal corporation, and also the state, its departments and
5 institutions and all political subdivisions thereof, irrespective of
6 the nature of the activities engaged in or functions performed, and
7 also the United States or any instrumentality thereof;

8 (4) "Delivery charges" means charges by the seller of personal
9 property or services for preparation and delivery to a location
10 designated by the purchaser of personal property or services including,
11 but not limited to, transportation, shipping, postage, handling,
12 crating, and packing;

13 (5) "Direct mail" means printed material delivered or distributed
14 by United States mail or other delivery service to a mass audience or
15 to addressees on a mailing list provided by the purchaser or at the
16 direction of the purchaser when the cost of the items are not billed
17 directly to the recipients. "Direct mail" includes tangible personal
18 property supplied directly or indirectly by the purchaser to the direct
19 mail seller for inclusion in the package containing the printed
20 material. "Direct mail" does not include multiple items of printed
21 material delivered to a single address;

22 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax
23 year," "taxable year," "person," "company," "sale," "sale at retail,"
24 "retail sale," "sale at wholesale," "wholesale," "business," "engaging
25 in business," "cash discount," "successor," "consumer," "in this state"
26 and "within this state" shall apply equally to the provisions of this
27 chapter;

28 (7) For the purposes of the taxes imposed under this chapter and
29 under chapter 82.12 RCW, "tangible personal property" means personal
30 property that can be seen, weighed, measured, felt, or touched, or that
31 is in any other manner perceptible to the senses. Tangible personal
32 property includes electricity, water, gas, steam, and prewritten
33 computer software;

34 (8) "Extended warranty" has the same meaning as in RCW
35 82.04.050(7).

36 **Sec. 2.** RCW 82.08.010 and 2007 c 6 s 1302 are each amended to read
37 as follows:

1 For the purposes of this chapter:

2 (1)(a) "Selling price" includes "sales price." "Sales price" means
3 the total amount of consideration, except separately stated trade-in
4 property of like kind, including cash, credit, property, and services,
5 for which tangible personal property, extended warranties, or services
6 defined as a "retail sale" under RCW 82.04.050 are sold, leased, or
7 rented, valued in money, whether received in money or otherwise. No
8 deduction from the total amount of consideration is allowed for the
9 following: (i) The seller's cost of the property sold; (ii) the cost
10 of materials used, labor or service cost, interest, losses, all costs
11 of transportation to the seller, all taxes imposed on the seller, and
12 any other expense of the seller; (iii) charges by the seller for any
13 services necessary to complete the sale, other than delivery and
14 installation charges; (iv) delivery charges; and (v) installation
15 charges.

16 When tangible personal property is rented or leased under
17 circumstances that the consideration paid does not represent a
18 reasonable rental for the use of the articles so rented or leased, the
19 "selling price" shall be determined as nearly as possible according to
20 the value of such use at the places of use of similar products of like
21 quality and character under such rules as the department may prescribe;

22 (b) "Selling price" or "sales price" does not include: Discounts,
23 including cash, term, or coupons that are not reimbursed by a third
24 party that are allowed by a seller and taken by a purchaser on a sale;
25 interest, financing, and carrying charges from credit extended on the
26 sale of tangible personal property, extended warranties, or services,
27 if the amount is separately stated on the invoice, bill of sale, or
28 similar document given to the purchaser; a rebate given by a
29 manufacturer and assigned to a seller by a buyer; and any taxes legally
30 imposed directly on the consumer that are separately stated on the
31 invoice, bill of sale, or similar document given to the purchaser;

32 (c) "Selling price" or "sales price" includes consideration
33 received by the seller from a third party if:

34 (i) The seller actually receives consideration from a party other
35 than the purchaser, and the consideration is directly related to a
36 price reduction or discount on the sale;

37 (ii) The seller has an obligation to pass the price reduction or
38 discount through to the purchaser;

1 (iii) The amount of the consideration attributable to the sale is
2 fixed and determinable by the seller at the time of the sale of the
3 item to the purchaser; and

4 (iv) One of the criteria in this subsection (1)(c)(iv) is met:

5 (A) The purchaser presents a coupon, certificate, or other
6 documentation to the seller to claim a price reduction or discount
7 where the coupon, certificate, or documentation is authorized,
8 distributed, or granted by a third party with the understanding that
9 the third party will reimburse any seller to whom the coupon,
10 certificate, or documentation is presented;

11 (B) The purchaser identifies himself or herself to the seller as a
12 member of a group or organization entitled to a price reduction or
13 discount, however a "preferred customer" card that is available to any
14 patron does not constitute membership in such a group; or

15 (C) The price reduction or discount is identified as a third party
16 price reduction or discount on the invoice received by the purchaser or
17 on a coupon, certificate, or other documentation presented by the
18 purchaser;

19 (2)(a) "Seller" means every person, including the state and its
20 departments and institutions, making sales at retail or retail sales to
21 a buyer, purchaser, or consumer, whether as agent, broker, or
22 principal, except "seller" does not mean:

23 (i) The state and its departments and institutions when making
24 sales to the state and its departments and institutions; or

25 (ii) A professional employer organization when a covered employee
26 coemployed with the client under the terms of a professional employer
27 agreement engages in activities that constitute a sale at retail that
28 is subject to the tax imposed by this chapter. In such cases, the
29 client, and not the professional employer organization, is deemed to be
30 the seller and is responsible for collecting and remitting the tax
31 imposed by this chapter.

32 (b) For the purposes of (a) of this subsection, the terms "client,"
33 "covered employee," "professional employer agreement," and
34 "professional employer organization" have the same meanings as in RCW
35 82.04.540;

36 (3) "Buyer," "purchaser," and "consumer" include, without limiting
37 the scope hereof, every individual, receiver, assignee, trustee in
38 bankruptcy, trust, estate, firm, copartnership, joint venture, club,

1 company, joint stock company, business trust, corporation, association,
2 society, or any group of individuals acting as a unit, whether mutual,
3 cooperative, fraternal, nonprofit, or otherwise, municipal corporation,
4 quasi municipal corporation, and also the state, its departments and
5 institutions and all political subdivisions thereof, irrespective of
6 the nature of the activities engaged in or functions performed, and
7 also the United States or any instrumentality thereof;

8 (4) "Delivery charges" means charges by the seller of personal
9 property or services for preparation and delivery to a location
10 designated by the purchaser of personal property or services including,
11 but not limited to, transportation, shipping, postage, handling,
12 crating, and packing;

13 (5) "Direct mail" means printed material delivered or distributed
14 by United States mail or other delivery service to a mass audience or
15 to addressees on a mailing list provided by the purchaser or at the
16 direction of the purchaser when the cost of the items are not billed
17 directly to the recipients. "Direct mail" includes tangible personal
18 property supplied directly or indirectly by the purchaser to the direct
19 mail seller for inclusion in the package containing the printed
20 material. "Direct mail" does not include multiple items of printed
21 material delivered to a single address;

22 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax
23 year," "taxable year," "person," "company," "sale," "sale at retail,"
24 "retail sale," "sale at wholesale," "wholesale," "business," "engaging
25 in business," "cash discount," "successor," "consumer," "in this state"
26 and "within this state" shall apply equally to the provisions of this
27 chapter;

28 (7) For the purposes of the taxes imposed under this chapter and
29 under chapter 82.12 RCW, "tangible personal property" means personal
30 property that can be seen, weighed, measured, felt, or touched, or that
31 is in any other manner perceptible to the senses. Tangible personal
32 property includes electricity, water, gas, steam, and prewritten
33 computer software;

34 (8) "Extended warranty" has the same meaning as in RCW
35 82.04.050(7).

36 NEW SECTION. **Sec. 3.** Section 1 of this act expires July 1, 2008.

1 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect July 1,
2 2008.

--- END ---