
SENATE BILL 5940

State of Washington

54th Legislature

1995 Regular Session

By Senators Snyder, McCaslin, Loveland, Palmer, Bauer, Sutherland, Newhouse, Heavey, Moyer, Finkbeiner, Winsley, Gaspard, Drew, Sheldon, Fraser, Wojahn, Long and Spanel

Read first time 02/15/95. Referred to Committee on Ways & Means.

1 AN ACT Relating to clarifying that use tax is due on direct mail
2 advertising pieces printed out-of-state and mailed directly to
3 Washington residents to promote the sale of goods or services by
4 Washington residents; amending RCW 82.12.010; providing an effective
5 date; and declaring an emergency.

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

7 **Sec. 1.** RCW 82.12.010 and 1994 c 93 s 1 are each amended to read
8 as follows:

9 For the purposes of this chapter:

10 (1)(a) "Value of the article used" shall mean the consideration,
11 whether money, credit, rights, or other property except trade-in
12 property of like kind, expressed in terms of money, paid or given or
13 contracted to be paid or given by the purchaser to the seller for the
14 article of tangible personal property, the use of which is taxable
15 under this chapter. The term includes, in addition to the
16 consideration paid or given or contracted to be paid or given, the
17 amount of any tariff or duty paid with respect to the importation of
18 the article used. In case the article used is acquired by lease or by
19 gift or is extracted, produced, or manufactured by the person using the

1 same or is sold under conditions wherein the purchase price does not
2 represent the true value thereof, the value of the article used shall
3 be determined as nearly as possible according to the retail selling
4 price at place of use of similar products of like quality and character
5 under such rules as the department of revenue may prescribe.

6 (b) In case the articles used are acquired by bailment, the value
7 of the use of the articles so used shall be in an amount representing
8 a reasonable rental for the use of the articles so bailed, determined
9 as nearly as possible according to the value of such use at the places
10 of use of similar products of like quality and character under such
11 rules as the department of revenue may prescribe. In case any such
12 articles of tangible personal property are used in respect to the
13 construction, repairing, decorating, or improving of, and which become
14 or are to become an ingredient or component of, new or existing
15 buildings or other structures under, upon, or above real property of or
16 for the United States, any instrumentality thereof, or a county or city
17 housing authority created pursuant to chapter 35.82 RCW, including the
18 installing or attaching of any such articles therein or thereto,
19 whether or not such personal property becomes a part of the realty by
20 virtue of installation, then the value of the use of such articles so
21 used shall be determined according to the retail selling price of such
22 articles, or in the absence of such a selling price, as nearly as
23 possible according to the retail selling price at place of use of
24 similar products of like quality and character or, in the absence of
25 either of these selling price measures, such value may be determined
26 upon a cost basis, in any event under such rules as the department of
27 revenue may prescribe.

28 (c) In the case of articles owned by a user engaged in business
29 outside the state which are brought into the state for no more than one
30 hundred eighty days in any period of three hundred sixty-five
31 consecutive days and which are temporarily used for business purposes
32 by the person in this state, the value of the article used shall be an
33 amount representing a reasonable rental for the use of the articles,
34 unless the person has paid tax under this chapter or chapter 82.08 RCW
35 upon the full value of the article used, as defined in (a) of this
36 subsection.

37 (d) In the case of articles manufactured or produced by the user
38 and used in the manufacture or production of products sold or to be
39 sold to the department of defense of the United States, the value of

1 the articles used shall be determined according to the value of the
2 ingredients of such articles.

3 (e) In the case of an article manufactured or produced for purposes
4 of serving as a prototype for the development of a new or improved
5 product, the value of the article used shall be determined by: (i) The
6 retail selling price of such new or improved product when first offered
7 for sale; or (ii) the value of materials incorporated into the
8 prototype in cases in which the new or improved product is not offered
9 for sale;

10 (2) "Use," "used," "using," or "put to use" shall have their
11 ordinary meaning, and shall mean the first act within this state by
12 which the taxpayer takes or assumes dominion or control over the
13 article of tangible personal property (as a consumer), and include
14 installation, storage, distribution or display, withdrawal from
15 storage, or any other act preparatory to subsequent actual use or
16 consumption within this state. With respect to property distributed to
17 persons within this state by a consumer as defined in subsection (5) of
18 this section, the use of the property shall be deemed to be by the
19 consumer;

20 (3) "Taxpayer" and "purchaser" include all persons included within
21 the meaning of the word "buyer" and the word "consumer" as defined in
22 chapters 82.04 and 82.08 RCW;

23 (4) "Retailer" means every seller as defined in RCW 82.08.010 and
24 every person engaged in the business of selling tangible personal
25 property at retail and every person required to collect from purchasers
26 the tax imposed under this chapter;

27 (5) The meaning ascribed to words and phrases in chapters 82.04 and
28 82.08 RCW, insofar as applicable, shall have full force and effect with
29 respect to taxes imposed under the provisions of this chapter.
30 "Consumer," in addition to the meaning ascribed to it in chapters 82.04
31 and 82.08 RCW insofar as applicable, shall also mean any person who
32 distributes or displays, or causes to be distributed or displayed, any
33 article of tangible personal property, except newspapers, the primary
34 purpose of which is to promote the sale of products or services.

35 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect July 1, 1995.

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