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HOUSE BILL 1990

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State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Fey, Sells, and Appleton

Read first time 02/05/15. Referred to Committee on Finance.

1            AN ACT Relating to use tax on vehicles transferred between  
2 immediate family members for no consideration other than to relieve  
3 the transferor of the underlying debt on the vehicle; amending RCW  
4 82.12.020; adding a new section to chapter 82.12 RCW; and creating a  
5 new section.

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

7            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 82.12  
8 RCW to read as follows:

9            (1) When an individual who is the registered owner of a motor  
10 vehicle transfers his or her interest in the motor vehicle to an  
11 immediate family member solely in consideration of the immediate  
12 family member furnishing a lump-sum payment to extinguish such  
13 owner's liability to the legal owner for the outstanding debt on the  
14 motor vehicle, the tax levied by RCW 82.12.020 is equal to the  
15 applicable rates in effect for the retail sales tax under RCW  
16 82.08.020 multiplied by the lesser of:

- 17            (a) The amount of the lump-sum payment; or
- 18            (b) The value of the article used.

19            (2) The reduced measure of tax in subsection (1)(a) of this  
20 section only applies when:

1 (a) The legal owner of the motor vehicle has released its  
2 security interest in the motor vehicle upon satisfaction of the  
3 registered owner's outstanding debt on the motor vehicle;

4 (b) The immediate family member furnishes no consideration to the  
5 registered owner for the motor vehicle other than making the lump-sum  
6 payment to extinguish the registered owner's liability for the  
7 outstanding debt on the motor vehicle;

8 (c) The registered owner's interest in the motor vehicle is  
9 transferred to the immediate family member as evidenced on a  
10 registration certificate issued by the department of licensing within  
11 ninety days of the legal owner releasing its security interest in the  
12 motor vehicle;

13 (d) The tax imposed under chapter 82.08 RCW or this chapter was  
14 previously paid on the sale or use of the motor vehicle; and

15 (e) The immediate family member provides documentation  
16 establishing his or her eligibility for the tax treatment provided in  
17 subsection (1)(a) of this section as may be required by the  
18 department.

19 (3) The definitions in this subsection apply throughout this  
20 section unless the context clearly requires otherwise.

21 (a) "Immediate family member" means an individual's spouse or  
22 domestic partner; child, adopted child, stepchild, grandchild,  
23 parent, stepparent, grandparent, brother, half brother, sister, or  
24 half sister of the individual, and the spouse or the domestic partner  
25 of any such person; and a child, adopted child, stepchild,  
26 grandchild, parent, stepparent, grandparent, brother, half brother,  
27 sister, or half sister of the individual's spouse or domestic  
28 partner, and the spouse or the domestic partner of any such person.  
29 For purposes of this subsection, "domestic partner" has the same  
30 meaning as in RCW 26.26.011.

31 (b) "Legal owner" has the same meaning as in RCW 46.04.270.

32 (c) "Motor vehicle" has the same meaning as in RCW 46.04.320.

33 (d) "Registered owner" has the same meaning as in RCW 46.04.460.

34 **Sec. 2.** RCW 82.12.020 and 2010 1st sp.s. c 23 s 206 are each  
35 amended to read as follows:

36 (1) There is levied and collected from every person in this state  
37 a tax or excise for the privilege of using within this state as a  
38 consumer any:

1 (a) Article of tangible personal property acquired by the user in  
2 any manner, including tangible personal property acquired at a casual  
3 or isolated sale, and including by-products used by the manufacturer  
4 thereof, except as otherwise provided in this chapter, irrespective  
5 of whether the article or similar articles are manufactured or are  
6 available for purchase within this state;

7 (b) Prewritten computer software, regardless of the method of  
8 delivery, but excluding prewritten computer software that is either  
9 provided free of charge or is provided for temporary use in viewing  
10 information, or both;

11 (c) Services defined as a retail sale in RCW 82.04.050 (2)(a) or  
12 (g), (3)(a), or (6)(b), excluding services defined as a retail sale  
13 in RCW 82.04.050(6)(b) that are provided free of charge;

14 (d) Extended warranty; or

15 (e)(i) Digital good, digital code, or digital automated service,  
16 including the use of any services provided by a seller exclusively in  
17 connection with digital goods, digital codes, or digital automated  
18 services, whether or not a separate charge is made for such services.

19 (ii) With respect to the use of digital goods, digital automated  
20 services, and digital codes acquired by purchase, the tax imposed in  
21 this subsection (1)(e) applies in respect to:

22 (A) Sales in which the seller has granted the purchaser the right  
23 of permanent use;

24 (B) Sales in which the seller has granted the purchaser a right  
25 of use that is less than permanent;

26 (C) Sales in which the purchaser is not obligated to make  
27 continued payment as a condition of the sale; and

28 (D) Sales in which the purchaser is obligated to make continued  
29 payment as a condition of the sale.

30 (iii) With respect to digital goods, digital automated services,  
31 and digital codes acquired other than by purchase, the tax imposed in  
32 this subsection (1)(e) applies regardless of whether or not the  
33 consumer has a right of permanent use or is obligated to make  
34 continued payment as a condition of use.

35 (2) The provisions of this chapter do not apply in respect to the  
36 use of any article of tangible personal property, extended warranty,  
37 digital good, digital code, digital automated service, or service  
38 taxable under RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), if the  
39 sale to, or the use by, the present user or the present user's bailor  
40 or donor has already been subjected to the tax under chapter 82.08

1 RCW or this chapter and the tax has been paid by the present user or  
2 by the present user's bailor or donor.

3 (3)(a) Except as provided in this section, payment of the tax  
4 imposed by this chapter or chapter 82.08 RCW by one purchaser or user  
5 of tangible personal property, extended warranty, digital good,  
6 digital code, digital automated service, or other service does not  
7 have the effect of exempting any other purchaser or user of the same  
8 property, extended warranty, digital good, digital code, digital  
9 automated service, or other service from the taxes imposed by such  
10 chapters.

11 (b) The tax imposed by this chapter does not apply:

12 (i) If the sale to, or the use by, the present user or his or her  
13 bailor or donor has already been subjected to the tax under chapter  
14 82.08 RCW or this chapter and the tax has been paid by the present  
15 user or by his or her bailor or donor;

16 (ii) In respect to the use of any article of tangible personal  
17 property acquired by bailment and the tax has once been paid based on  
18 reasonable rental as determined by RCW 82.12.060 measured by the  
19 value of the article at time of first use multiplied by the tax rate  
20 imposed by chapter 82.08 RCW or this chapter as of the time of first  
21 use;

22 (iii) In respect to the use of any article of tangible personal  
23 property acquired by bailment, if the property was acquired by a  
24 previous bailee from the same bailor for use in the same general  
25 activity and the original bailment was prior to June 9, 1961; or

26 (iv) To the use of digital goods or digital automated services,  
27 which were obtained through the use of a digital code, if the sale of  
28 the digital code to, or the use of the digital code by, the present  
29 user or the present user's bailor or donor has already been subjected  
30 to the tax under chapter 82.08 RCW or this chapter and the tax has  
31 been paid by the present user or by the present user's bailor or  
32 donor.

33 (4)(a) Except as provided in (b) of this subsection (4) and  
34 section 1 of this act, the tax is levied and must be collected in an  
35 amount equal to the value of the article used, value of the digital  
36 good or digital code used, value of the extended warranty used, or  
37 value of the service used by the taxpayer, multiplied by the  
38 applicable rates in effect for the retail sales tax under RCW  
39 82.08.020.

1 (b) In the case of a seller required to collect use tax from the  
2 purchaser, the tax must be collected in an amount equal to the  
3 purchase price multiplied by the applicable rate in effect for the  
4 retail sales tax under RCW 82.08.020.

5 (5) For purposes of the tax imposed in this section, "person"  
6 includes anyone within the definition of "buyer," "purchaser," and  
7 "consumer" in RCW 82.08.010.

8 NEW SECTION. **Sec. 3.** This section is the tax preference  
9 performance statement for the tax preference contained in section 1  
10 of this act. This performance statement is only intended to be used  
11 for subsequent evaluation of the tax preference. It is not intended  
12 to create a private right of action by any party or be used to  
13 determine eligibility for preferential tax treatment.

14 (1) The legislature categorizes this tax preference as one  
15 intended to provide tax relief for certain individuals, as indicated  
16 in RCW 82.32.808(2)(e).

17 (2) It is the legislature's specific public policy objective to  
18 provide use tax relief to individuals that pay off a vehicle loan for  
19 an immediate family member solely in exchange for ownership of the  
20 vehicle.

21 (3) If a review finds that the tax preference provides relief or  
22 is capable of providing relief to individuals in these circumstances,  
23 then the legislature intends to extend the expiration date of the tax  
24 preference.

25 (4) In order to obtain the data necessary to perform the review  
26 in subsection (3) of this section, the joint legislative audit and  
27 review committee may request information from the department of  
28 licensing about the use of this tax preference.

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