
ENGROSSED SUBSTITUTE HOUSE BILL 2778

State of Washington

64th Legislature

2016 Regular Session

By House Transportation (originally sponsored by Representatives Fey, Orcutt, Clibborn, McBride, Moscoso, Hickel, Stambaugh, Bergquist, Tharinger, and Tarleton)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to retail sales and use tax exemption criteria
2 for certain clean alternative fuel vehicles; amending RCW 82.08.809
3 and 82.12.809; creating a new section; and providing an effective
4 date.

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

6 NEW SECTION. **Sec. 1.** This section is the tax preference
7 performance statement for the tax preferences contained in sections 2
8 and 3 of this act. The performance statement is only intended to be
9 used for subsequent evaluation of the tax preference. It is not
10 intended to create a private right of action by any party or be used
11 to determine eligibility for preferential tax treatment.

12 (1) The legislature categorizes the tax preference as one
13 intended to induce certain designated behavior by taxpayers, as
14 indicated in RCW 82.32.808(2)(a).

15 (2) It is the legislature's specific public policy objective to
16 increase the use of clean alternative fuel vehicles in Washington. It
17 is the legislature's intent to extend the existing sales and use tax
18 exemption on certain clean alternative fuel vehicles in order to
19 reduce the price charged to customers for clean alternative fuel
20 vehicles.

1 (3) To measure the effectiveness of the tax preferences in
2 sections 2 and 3 of this act in achieving the public policy
3 objectives described in subsection (2) of this section, the joint
4 legislative audit and review committee must evaluate the number of
5 clean alternative fuel vehicles registered in the state.

6 (4) In order to obtain the data necessary to perform the review
7 in subsection (3) of this section, the department of licensing must
8 provide data needed for the joint legislative audit and review
9 committee analysis. In addition to the data source described under
10 this subsection, the joint legislative audit and review committee may
11 use any other data it deems necessary.

12 **Sec. 2.** RCW 82.08.809 and 2015 3rd sp.s. c 44 s 408 are each
13 amended to read as follows:

14 (1)(a) Except as provided in subsection (4) of this section, the
15 tax levied by RCW 82.08.020 does not apply to sales of new passenger
16 cars, light duty trucks, and medium duty passenger vehicles, which
17 ~~((a))~~ (i) are exclusively powered by a clean alternative fuel or
18 ~~((b))~~ (ii) use at least one method of propulsion that is capable of
19 being reenergized by an external source of electricity and are
20 capable of traveling at least thirty miles using only battery power.

21 (b) Beginning with sales made or lease agreements signed on or
22 after July 1, 2016, the exemption in this section is only applicable
23 for up to thirty-five thousand dollars of a vehicle's selling price
24 or the total lease payments made plus the selling price of the leased
25 vehicle if the original lessee purchases the leased vehicle.

26 (2) The seller must keep records necessary for the department to
27 verify eligibility under this section.

28 (3) As used in this section, "clean alternative fuel" means
29 natural gas, propane, hydrogen, or electricity, when used as a fuel
30 in a motor vehicle that meets the California motor vehicle emission
31 standards in Title 13 of the California code of regulations,
32 effective January 1, 2005, and the rules of the Washington state
33 department of ecology.

34 (4)(a) A sale, other than a lease, of a vehicle identified in
35 subsection (1) of this section made on or after July 15, 2015, and
36 before July 1, 2016, is not exempt from sales tax as described under
37 subsection (1)(a) of this section if the adjusted selling price of
38 the vehicle (~~plus trade-in property of like kind~~) exceeds thirty-
39 five thousand dollars.

1 **(b) A sale, other than a lease, of a vehicle identified in**
2 **subsection (1) of this section made on or after July 1, 2016, and**
3 **before July 1, 2019, is not exempt from sales tax as described under**
4 **subsection (1) of this section unless either of the following**
5 **applies:**

6 **(i) The adjusted selling price of the vehicle is thirty-eight**
7 **thousand five hundred dollars or less; or**

8 **(ii) The adjusted selling price of the vehicle is more than**
9 **thirty-eight thousand five hundred dollars but no more than forty-two**
10 **thousand five hundred dollars and either:**

11 **(A) The vehicle's rated battery energy capacity is thirty**
12 **kilowatt-hours or more; or**

13 **(B) The vehicle's driving range on a full battery charge using**
14 **only battery power is one hundred miles or more.**

15 **(c) For leased vehicles for which the lease agreement is signed**
16 **on or after July 1, 2016, and before July 1, 2019, lease payments are**
17 **not exempt from sales tax as described under subsection (1) of this**
18 **section unless either of the following applies:**

19 **(i) The adjusted fair market value of the vehicle being leased is**
20 **thirty-eight thousand five hundred dollars or less at the inception**
21 **of the lease; or**

22 **(ii) The adjusted fair market value of the vehicle being leased**
23 **is more than thirty-eight thousand five hundred dollars but no more**
24 **than forty-two thousand five hundred dollars at the inception of the**
25 **lease and either:**

26 **(A) The vehicle's rated battery energy capacity is thirty**
27 **kilowatt-hours or more; or**

28 **(B) The vehicle's driving range on a full battery charge using**
29 **only battery power is one hundred miles or more.**

30 **(d) For leased vehicles for which the lease agreement is signed**
31 **on or after July 15, 2015, and before July 1, 2016, lease payments**
32 **are not exempt from sales tax as described under subsection (1)(a) of**
33 **this section if the adjusted fair market value of the vehicle being**
34 **leased exceeds thirty-five thousand dollars at the inception of the**
35 **lease. ((For the purposes of this subsection (4)(b), "fair market**
36 **value" has the same meaning as "value of the article used" in RCW**
37 **82.12.010.**

38 **(e)) (e) For leased vehicles for which the lease agreement was**
39 **signed before July ((15)) 1, 2015, lease payments are exempt from**
40 **sales tax as described under subsection (1)(a) of this section**

1 regardless of the vehicle's adjusted fair market value at the
2 inception of the lease.

3 (f) The adjusted selling price and adjusted fair market value
4 limits used to determine exemption eligibility in (b)(i), (b)(ii),
5 (c)(i), and (c)(ii) of this subsection are raised by five hundred
6 dollars on January 1st of each calendar year, beginning January 1,
7 2017. The adjusted selling price and the adjusted fair market value
8 limits used to determine exemption eligibility for a sale or lease
9 under this section are the limits in effect for the calendar year
10 during which the sale is made or the lease agreement is signed.
11 Exemption eligibility for a leased vehicle is determined at the time
12 a lease agreement is signed, and applies to the sale of the leased
13 vehicle by the lessor to the original lessee during or at the end of
14 the lease term, but before July 1, 2019.

15 (5) On the last day of January, April, July, and October of each
16 year, the state treasurer, based upon information provided by the
17 department, must transfer from the multimodal transportation account
18 to the general fund a sum equal to the dollar amount that would
19 otherwise have been deposited into the general fund during the prior
20 calendar quarter but for the exemption provided in this section.
21 Information provided by the department to the state treasurer must be
22 based on the best available data, except that the department may
23 provide estimates of taxes exempted under this section until such
24 time as retailers are able to report such exempted amounts on their
25 tax returns. For purposes of this section, the first transfer for the
26 calendar quarter after July 15, 2015, must be calculated assuming
27 only those revenues that should have been deposited into the general
28 fund beginning July 1, 2015.

29 (6) Lease payments due on or after July 1, 2019, and the purchase
30 of a leased vehicle exempt under this section that is purchased on or
31 after July 1, 2019, are subject to the taxes imposed under this
32 chapter.

33 (7) For the purposes of this section:

34 (a) "Adjusted fair market value" has the same meaning as "value
35 of the article used" as defined in RCW 82.12.010 plus the value of
36 any trade-in property of like kind.

37 (b) "Adjusted selling price" has the same meaning as "selling
38 price" as defined in RCW 82.08.010 plus the value of any trade-in
39 property of like kind.

40 (8) This section expires July 1, 2019.

1 **Sec. 3.** RCW 82.12.809 and 2015 3rd sp.s. c 44 s 409 are each
2 amended to read as follows:

3 (1)(a) Except as provided in subsection (4) of this section,
4 (~~until July 1, 2019,~~) the provisions of this chapter do not apply
5 in respect to the use of new passenger cars, light duty trucks, and
6 medium duty passenger vehicles, which (~~(a)~~) (i) are exclusively
7 powered by a clean alternative fuel or (~~(b)~~) (ii) use at least one
8 method of propulsion that is capable of being reenergized by an
9 external source of electricity and are capable of traveling at least
10 thirty miles using only battery power.

11 **(b) Beginning with purchases made or lease agreements signed on**
12 **or after July 1, 2016, the exemption in this section is only**
13 **applicable for up to thirty-five thousand dollars of a vehicle's**
14 **purchase price or the total lease payments made plus the purchase**
15 **price of the leased vehicle if the original lessee purchases the**
16 **leased vehicle.**

17 (2) The definitions in RCW 82.08.809 apply to this section.

18 (3) A taxpayer is not liable for the tax imposed in RCW 82.12.020
19 on the use, on or after July 1, 2019, of a passenger car, light duty
20 truck, or medium duty passenger vehicle that is exclusively powered
21 by a clean alternative fuel or uses at least one method of propulsion
22 that is capable of being reenergized by an external source of
23 electricity and is capable of traveling at least thirty miles using
24 only battery power, if the taxpayer used such vehicle in this state
25 before July 1, 2019, and the use was exempt under this section from
26 the tax imposed in RCW 82.12.020.

27 (4)(a) **For vehicles identified in subsection (1) of this section**
28 **purchased on or after July 1, 2016, and before July 1, 2019, or for**
29 **leased vehicles identified in subsection (1) of this section for**
30 **which the lease agreement was signed on or after July 1, 2016, and**
31 **before July 1, 2019, a vehicle is not exempt from use tax as**
32 **described under subsection (1) of this section unless either of the**
33 **following applies:**

34 **(i) The adjusted fair market value of the vehicle is thirty-eight**
35 **thousand five hundred dollars or less at the time the tax is imposed**
36 **for purchased vehicles or at the inception of the lease for leased**
37 **vehicles; or**

38 **(ii) The adjusted fair market value of the vehicle is more than**
39 **thirty-eight thousand five hundred dollars but no more than forty-two**
40 **thousand five hundred dollars at the time the tax is imposed for**

1 purchased vehicles or at the inception of the lease for leased
2 vehicles and either:

3 (A) The vehicle's rated battery energy capacity is thirty
4 kilowatt-hours or more; or

5 (B) The vehicle's driving range on a full battery charge using
6 only battery power is one hundred miles or more.

7 (b) For vehicles purchased on or after July 15, 2015, and before
8 July 1, 2016, or for leased vehicles for which the lease agreement
9 was signed on or after July 15, 2015, and before July 1, 2016, a
10 vehicle is not exempt from use tax as described under subsection (1)
11 of this section if the adjusted fair market value of the vehicle
12 exceeds thirty-five thousand dollars at the time the tax is imposed
13 for purchased vehicles, or at the inception of the lease for leased
14 vehicles.

15 ~~((b))~~ (c) For leased vehicles for which the lease agreement was
16 signed before July ~~((15))~~ 1, 2015, lease payments are exempt from use
17 tax as described under subsection (1) of this section regardless of
18 the vehicle's adjusted fair market value at the inception of the
19 lease.

20 (d) The adjusted fair market value limits used to determine
21 exemption eligibility in (a)(i) and (ii) of this subsection are
22 raised by five hundred dollars on January 1st of each calendar year,
23 beginning January 1, 2017. The adjusted fair market value limits used
24 to determine exemption eligibility for a sale or lease under this
25 section are the limits in effect for the calendar year during which
26 the sale is made or the lease agreement is signed. Exemption
27 eligibility for a leased vehicle is determined at the time a lease
28 agreement is signed, and applies to the sale of the leased vehicle by
29 the lessor to the original lessee during or at the end of the lease
30 term, but before July 1, 2019.

31 (5) On the last day of January, April, July, and October of each
32 year, the state treasurer, based upon information provided by the
33 department, must transfer from the multimodal transportation account
34 to the general fund a sum equal to the dollar amount that would
35 otherwise have been deposited into the general fund during the prior
36 calendar quarter but for the exemption provided in this section.
37 Information provided by the department to the state treasurer must be
38 based on the best available data. For purposes of this section, the
39 first transfer for the calendar quarter after July 15, 2015, must be

1 calculated assuming only those revenues that should have been
2 deposited into the general fund beginning July 1, 2015.

3 (6) Lease payments due on or after July 1, 2019, and the purchase
4 of a leased vehicle exempt under this section that is purchased on or
5 after July 1, 2019, are subject to the taxes imposed under this
6 chapter.

7 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2016.

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