
HOUSE BILL 2481

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Holm, G. Fisher, Foreman and Kremen; by request of Department of Revenue

Read first time 01/17/94. Referred to Committee on Revenue.

1 AN ACT Relating to use tax on tangible personal property
2 temporarily used in this state by a person engaged in business outside
3 this state, and property purchased, extracted, produced, or
4 manufactured outside this state; amending RCW 82.12.020; reenacting and
5 amending RCW 82.12.010; and providing an effective date.

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

7 **Sec. 1.** RCW 82.12.010 and 1985 c 222 s 1 and 1985 c 132 s 1 are
8 each reenacted and amended to read 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 ((and regulations)) as the department of revenue may
6 prescribe.

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

30 (c) In the case of articles owned by a user engaged in business
31 outside the state which are brought into the state for no more than
32 ((ninety)) one hundred eighty days in any period of three hundred
33 sixty-five consecutive days and which are temporarily used for business
34 purposes by the person in this state, the value of the article used
35 shall be an amount representing a reasonable rental for the use of the
36 articles, unless the person has paid tax under this chapter or chapter
37 82.08 RCW upon the full value of the article used, as defined in ((the
38 first paragraph)) (a) of this subsection.

1 (d) In the case of articles manufactured or produced by the user
2 and used in the manufacture or production of products sold or to be
3 sold to the department of defense of the United States, the value of
4 the articles used shall be determined according to the value of the
5 ingredients of such articles.

6 (e) In the case of an article manufactured or produced for purposes
7 of serving as a prototype for the development of a new or improved
8 product, the value of the article used shall be determined by: ~~((a))~~

9 (i) The retail selling price of such new or improved product when first
10 offered for sale; or ~~((b))~~ (ii) the value of materials incorporated
11 into the prototype in cases in which the new or improved product is not
12 offered for sale~~((c))~~;

13 (2) "Use," "used," "using," or "put to use" shall have their
14 ordinary meaning, and shall mean the first act within this state by
15 which the taxpayer takes or assumes dominion or control over the
16 article of tangible personal property (as a consumer), and include
17 installation, storage, withdrawal from storage, or any other act
18 preparatory to subsequent actual use or consumption within this state;

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

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

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

34 **Sec. 2.** RCW 82.12.020 and 1983 c 7 s 7 are each amended to read as
35 follows:

36 (1) There is hereby levied and there shall be collected from every
37 person in this state a tax or excise for the privilege of using within
38 this state as a consumer any article of tangible personal property

1 purchased at retail, or acquired by lease, gift, repossession, or
2 bailment, or extracted or produced or manufactured by the person so
3 using the same, or otherwise furnished to a person engaged in any
4 business taxable under RCW 82.04.280(~~(, subsections)~~) (2) or (7).
5 (~~This tax will not apply with respect to the use of any article of~~
6 ~~tangible personal property purchased, extracted, produced or~~
7 ~~manufactured outside this state until the transportation of such~~
8 ~~article has finally ended or until such article has become commingled~~
9 ~~with the general mass of property in this state.))~~)

10 (2) This tax shall apply to the use of every article of tangible
11 personal property, including property acquired at a casual or isolated
12 sale, and including byproducts used by the manufacturer thereof, except
13 as hereinafter provided, irrespective of whether the article or similar
14 articles are manufactured or are available for purchase within this
15 state.

16 (3) Except as provided in RCW 82.12.0252, payment by one purchaser
17 or user of tangible personal property of the tax imposed by chapter
18 82.08 or 82.12 RCW shall not have the effect of exempting any other
19 purchaser or user of the same property from the taxes imposed by such
20 chapters.

21 (4) The tax shall be levied and collected in an amount equal to the
22 value of the article used by the taxpayer multiplied by the rate in
23 effect for the retail sales tax under RCW 82.08.020(~~(, as now or~~
24 ~~hereafter amended, in the county in which the article is used)~~).

25 NEW SECTION. **Sec. 3.** This act shall take effect July 1, 1994.

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