
SENATE BILL 5631

State of Washington

53rd Legislature

1993 Regular Session

By Senators Fraser and Haugen

Read first time 02/05/93. Referred to Committee on Government Operations.

1 AN ACT Relating to retail sales and use taxation; amending RCW
2 82.08.010; and reenacting and amending RCW 82.12.010.

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

4 **Sec. 1.** RCW 82.08.010 and 1985 c 38 s 3 are each amended to read
5 as follows:

6 For the purposes of this chapter:

7 (1) "Selling price" means the consideration, whether money,
8 credits, rights, or other property except trade-in property of like
9 kind, expressed in the terms of money paid or delivered by a buyer to
10 a seller without any deduction on account of the cost of tangible
11 property sold, the cost of materials used, labor costs, interest,
12 discount, delivery costs, taxes other than taxes imposed under this
13 chapter if the seller advertises the price as including the tax or that
14 the seller is paying the tax, or any other expenses whatsoever paid or
15 accrued and without any deduction on account of losses; but shall not
16 include the amount of cash discount actually taken by a buyer; and
17 shall be subject to modification to the extent modification is provided
18 for in RCW 82.08.080.

1 The term does not include amounts charged the buyer that represent
2 amounts paid by the seller as impact fees for development activity
3 under RCW 82.02.050 in the constructing, repairing, or improving of new
4 or existing buildings or other structures under, upon, or above real
5 property.

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

13 (2) "Seller" means every person, including the state and its
14 departments and institutions, making sales at retail or retail sales to
15 a buyer or consumer, whether as agent, broker, or principal, except
16 "seller" does not mean the state and its departments and institutions
17 when making sales to the state and its departments and institutions;

18 (3) "Buyer" and "consumer" include, without limiting the scope
19 hereof, every individual, receiver, assignee, trustee in bankruptcy,
20 trust, estate, firm, copartnership, joint venture, club, company, joint
21 stock company, business trust, corporation, association, society, or
22 any group of individuals acting as a unit, whether mutual, cooperative,
23 fraternal, nonprofit, or otherwise, municipal corporation, quasi
24 municipal corporation, and also the state, its departments and
25 institutions and all political subdivisions thereof, irrespective of
26 the nature of the activities engaged in or functions performed, and
27 also the United States or any instrumentality thereof;

28 (4) The meaning attributed in chapter 82.04 RCW to the terms "tax
29 year," "taxable year," "person," "company," "sale," "sale at retail,"
30 "retail sale," "sale at wholesale," "wholesale," "business," "engaging
31 in business," "cash discount," "successor," "consumer," "in this state"
32 and "within this state" shall apply equally to the provisions of this
33 chapter.

34 **Sec. 2.** RCW 82.12.010 and 1985 c 222 s 1 and 1985 c 132 s 1 are
35 each reenacted and amended to read as follows:

36 For the purposes of this chapter:

37 (1) "Value of the article used" shall mean the consideration,
38 whether money, credit, rights, or other property except trade-in

1 property of like kind, expressed in terms of money, paid or given or
2 contracted to be paid or given by the purchaser to the seller for the
3 article of tangible personal property, the use of which is taxable
4 under this chapter. The term includes, in addition to the
5 consideration paid or given or contracted to be paid or given, the
6 amount of any tariff or duty paid with respect to the importation of
7 the article used. In case the article used is acquired by lease or by
8 gift or is extracted, produced, or manufactured by the person using the
9 same or is sold under conditions wherein the purchase price does not
10 represent the true value thereof, the value of the article used shall
11 be determined as nearly as possible according to the retail selling
12 price at place of use of similar products of like quality and character
13 under such rules and regulations as the department of revenue may
14 prescribe.

15 The term does not include amounts charged the buyer that represent
16 amounts paid by the seller as impact fees for development activity
17 under RCW 82.02.050 in the constructing, repairing, or improving of new
18 or existing buildings or other structures under, upon, or above real
19 property.

20 In case the articles used are acquired by bailment, the value of
21 the use of the articles so used shall be in an amount representing a
22 reasonable rental for the use of the articles so bailed, determined as
23 nearly as possible according to the value of such use at the places of
24 use of similar products of like quality and character under such rules
25 and regulations as the department of revenue may prescribe: PROVIDED,
26 That in case any such articles of tangible personal property are used
27 in respect to the construction, repairing, decorating, or improving of,
28 and which become or are to become an ingredient or component of, new or
29 existing buildings or other structures under, upon, or above real
30 property of or for the United States, any instrumentality thereof, or
31 a county or city housing authority created pursuant to chapter 35.82
32 RCW, including the installing or attaching of any such articles therein
33 or thereto, whether or not such personal property becomes a part of the
34 realty by virtue of installation, then the value of the use of such
35 articles so used shall be determined according to the retail selling
36 price of such articles, or in the absence of such a selling price, as
37 nearly as possible according to the retail selling price at place of
38 use of similar products of like quality and character or, in the
39 absence of either of these selling price measures, such value may be

1 determined upon a cost basis, in any event under such rules and
2 regulations as the department of revenue may prescribe.

3 In the case of articles owned by a user engaged in business outside
4 the state which are brought into the state for no more than ninety days
5 in any period of three hundred sixty-five consecutive days and which
6 are temporarily used for business purposes by the person in this state,
7 the value of the article used shall be an amount representing a
8 reasonable rental for the use of the articles, unless the person has
9 paid tax under this chapter or chapter 82.08 RCW upon the full value of
10 the article used, as defined in the first paragraph of this subsection.

11 In the case of articles manufactured or produced by the user and
12 used in the manufacture or production of products sold or to be sold to
13 the department of defense of the United States, the value of the
14 articles used shall be determined according to the value of the
15 ingredients of such articles.

16 In the case of an article manufactured or produced for purposes of
17 serving as a prototype for the development of a new or improved
18 product, the value of the article used shall be determined by: (a) The
19 retail selling price of such new or improved product when first offered
20 for sale; or (b) the value of materials incorporated into the prototype
21 in cases in which the new or improved product is not offered for sale.

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

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

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

35 (5) The meaning ascribed to words and phrases in chapters 82.04 and
36 82.08 RCW, insofar as applicable, shall have full force and effect with
37 respect to taxes imposed under the provisions of this chapter.
38 "Consumer," in addition to the meaning ascribed to it in chapters 82.04
39 and 82.08 RCW insofar as applicable, shall also mean any person who

1 distributes or displays, or causes to be distributed or displayed, any
2 article of tangible personal property, except newspapers, the primary
3 purpose of which is to promote the sale of products or services.

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