SENATE BILL REPORT
SB 6673

As of January 27, 2006

Title: An act relating to the valuation of motor vehicles for use taxation.

Brief Description: Modifying the valuation of motor vehicles for use taxation.

Sponsors: Senators Benton, Sheldon, Esser, Rasmussen, Oke, Shin and Schoesler.

Brief History:
Committee Activity: Ways & Means: 1/30/06.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax is imposed on taxable items and services used in the state that were not subject to the retail sales tax, and includes purchases made in other states, gifts for which sales tax was not paid, and purchases from sellers who do not collect Washington sales tax. The taxes are levied at a 6.5 percent rate by the state, and from 0.5 percent to 2.4 percent by local governments. Retail sales tax is paid by the purchaser and collected by the seller. Use tax is paid directly to the Department of Revenue.

Persons who sell tangible personal property but who are not in the business of selling the type of property involved, such as in the case of a vehicle sale between private parties, are not required to collect sales taxes. However, the transaction is considered a retail sale and so use tax applies.

Use tax applies to the purchase price of the article of tangible personal property acquired, unless acquired under conditions where the purchase price does not represent the true value of the item. In such conditions, the value must be determined as nearly as possible according to the retail selling price of similar products of like quality and character. In the case of a gifted item, the use tax is not due if the sales tax was paid by the giftor.

State law authorizes the Department of Revenue to designate county auditors and their subagents as collection agents of the use tax on motor vehicles. In addition, the Department of Licensing may also collect and remit tax. Tax is collected at the time a person applies for change of title and registration of a vehicle. Under Department of Revenue rules, the county, subagent, or Department of Licensing must verify that the purchase price represents the true value of the vehicle.

In 1999, the Joint Legislative Audit and Review Committee conducted a performance audit of the motor vehicle and driver licensing functions of the Department of Licensing and found, among other things, that there was a lack of oversight controls to ensure that licensing offices were collecting the full amount of use tax due to the state. In response to a recommendation in the ensuing report, the Departments of Licensing and Revenue jointly worked on the development of an automated valuing system in order to minimize potential use tax abuses. First put into operation in 2000, this system identifies the average retail value of the vehicle being registered using a database of average fair market values. The Department of Licensing obtains these values from National Market Reports, an industry standard source on vehicle valuation.

In determining the amount of use tax due, the automated valuing system checks the purchase price against the database of average fair market values. The bill of sale is accepted as evidence of the vehicle's value as long as the purchase price is either at or above the average fair market value, or no more than $2,000 below it. If the purchase price is more than $2,000 below the average fair market value, then use tax is based on the average fair market value in the database unless proof is presented that establishes the vehicle is worth less. However, if the average fair market value of the vehicle is $3,000 or less, then use tax is based on the purchase price.

If the purchase price is not presumed to represent the true value of the vehicle, a person may pay the use tax based on the average retail value as indicated by the automated valuing system or may substantiate the true value of the vehicle using one of the following:

1) Industry-accepted pricing guide. Alternative pricing guides, such as the National Auto Dealers Association (NADA) or Kelley Blue Book, will be accepted by The Department of Licensing if within $2,000 of this value;

2) Declaration of buyer and seller. This is an affidavit signed by both the buyer and the seller that certifies the purchase price and the vehicle's condition;

3) Written appraisal. This must be from an automobile dealer or an insurance or other vehicle appraiser;

4) Declaration of use tax. This is a done by an authorized employee of the Department of Revenue and is not available at all department of revenue locations; and

5) Repair estimate. This must be prepared by an auto repair or auto body repair business.

Summary of Bill: With respect to motor vehicle purchases or acquisitions, use tax applies to the purchase price of the vehicle, regardless of whether the purchase price represents the true value of the motor vehicle. For the purposes of calculating the tax, licensing agents must accept the purchase price declared by the person registering the vehicle on a bill of sale form. The form must be provided by the Department of Revenue and made available electronically on its web site and at all vehicle licensing locations.

The use of a vehicle acquired as a gift is not subject to use tax, if the gift includes the entire value of the vehicle.

The Departments of Licensing and Revenue are authorized to develop rules to implement the changes. The Departments are directed to use the Kelley Blue Book values for determining the value of the vehicle when auditing bill of sale forms. The Departments must report to the Senate and House Transportation Committees by December 1, 2006, on how an rules promulgated are consistent with the legislative intent.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2006.