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**SUBSTITUTE SENATE BILL 6481**

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**State of Washington**

**60th Legislature**

**2008 Regular Session**

**By** Senate Financial Institutions & Insurance (originally sponsored by Senators Benton, Schoesler, Hewitt, McCaslin, Delvin, Morton, Stevens, Swecker, Pflug, and Roach)

READ FIRST TIME 02/01/08.

1           AN ACT Relating to excluding the value of rebates from sales and  
2 use taxation; amending RCW 82.08.010 and 82.08.010; providing an  
3 effective date; and providing an expiration date.

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

5           **Sec. 1.** RCW 82.08.010 and 2007 c 6 s 1301 are each amended to read  
6 as follows:

7           For the purposes of this chapter:

8           (1) "Selling price" includes "sales price." "Sales price" means  
9 the total amount of consideration, except separately stated trade-in  
10 property of like kind, including cash, credit, property, and services,  
11 for which tangible personal property, extended warranties, or services  
12 defined as a "retail sale" under RCW 82.04.050 are sold, leased, or  
13 rented, valued in money, whether received in money or otherwise. No  
14 deduction from the total amount of consideration is allowed for the  
15 following: (a) The seller's cost of the property sold; (b) the cost of  
16 materials used, labor or service cost, interest, losses, all costs of  
17 transportation to the seller, all taxes imposed on the seller, and any  
18 other expense of the seller; (c) charges by the seller for any services

1 necessary to complete the sale, other than delivery and installation  
2 charges; (d) delivery charges; and (e) installation charges.

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

9 "Selling price" or "sales price" does not include: Discounts,  
10 including cash, term, or coupons that are not reimbursed by a third  
11 party that are allowed by a seller and taken by a purchaser on a sale;  
12 interest, financing, and carrying charges from credit extended on the  
13 sale of tangible personal property, extended warranties, or services,  
14 if the amount is separately stated on the invoice, bill of sale, or  
15 similar document given to the purchaser; a rebate given by a  
16 manufacturer on a motor vehicle and assigned to a seller by a buyer;  
17 and any taxes legally imposed directly on the consumer that are  
18 separately stated on the invoice, bill of sale, or similar document  
19 given to the purchaser;

20 (2)(a) "Seller" means every person, including the state and its  
21 departments and institutions, making sales at retail or retail sales to  
22 a buyer, purchaser, or consumer, whether as agent, broker, or  
23 principal, except "seller" does not mean:

24 (i) The state and its departments and institutions when making  
25 sales to the state and its departments and institutions; or

26 (ii) A professional employer organization when a covered employee  
27 coemployed with the client under the terms of a professional employer  
28 agreement engages in activities that constitute a sale at retail that  
29 is subject to the tax imposed by this chapter. In such cases, the  
30 client, and not the professional employer organization, is deemed to be  
31 the seller and is responsible for collecting and remitting the tax  
32 imposed by this chapter.

33 (b) For the purposes of (a) of this subsection, the terms "client,"  
34 "covered employee," "professional employer agreement," and  
35 "professional employer organization" have the same meanings as in RCW  
36 82.04.540;

37 (3) "Buyer," "purchaser," and "consumer" include, without limiting  
38 the scope hereof, every individual, receiver, assignee, trustee in

1 bankruptcy, trust, estate, firm, copartnership, joint venture, club,  
2 company, joint stock company, business trust, corporation, association,  
3 society, or any group of individuals acting as a unit, whether mutual,  
4 cooperative, fraternal, nonprofit, or otherwise, municipal corporation,  
5 quasi municipal corporation, and also the state, its departments and  
6 institutions and all political subdivisions thereof, irrespective of  
7 the nature of the activities engaged in or functions performed, and  
8 also the United States or any instrumentality thereof;

9 (4) "Delivery charges" means charges by the seller of personal  
10 property or services for preparation and delivery to a location  
11 designated by the purchaser of personal property or services including,  
12 but not limited to, transportation, shipping, postage, handling,  
13 crating, and packing;

14 (5) "Direct mail" means printed material delivered or distributed  
15 by United States mail or other delivery service to a mass audience or  
16 to addressees on a mailing list provided by the purchaser or at the  
17 direction of the purchaser when the cost of the items are not billed  
18 directly to the recipients. "Direct mail" includes tangible personal  
19 property supplied directly or indirectly by the purchaser to the direct  
20 mail seller for inclusion in the package containing the printed  
21 material. "Direct mail" does not include multiple items of printed  
22 material delivered to a single address;

23 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax  
24 year," "taxable year," "person," "company," "sale," "sale at retail,"  
25 "retail sale," "sale at wholesale," "wholesale," "business," "engaging  
26 in business," "cash discount," "successor," "consumer," "in this state"  
27 and "within this state" shall apply equally to the provisions of this  
28 chapter;

29 (7) For the purposes of the taxes imposed under this chapter and  
30 under chapter 82.12 RCW, "tangible personal property" means personal  
31 property that can be seen, weighed, measured, felt, or touched, or that  
32 is in any other manner perceptible to the senses. Tangible personal  
33 property includes electricity, water, gas, steam, and prewritten  
34 computer software;

35 (8) "Extended warranty" has the same meaning as in RCW  
36 82.04.050(7).

1       **Sec. 2.** RCW 82.08.010 and 2007 c 6 s 1302 are each amended to read  
2 as follows:

3       For the purposes of this chapter:

4       (1)(a) "Selling price" includes "sales price." "Sales price" means  
5 the total amount of consideration, except separately stated trade-in  
6 property of like kind, including cash, credit, property, and services,  
7 for which tangible personal property, extended warranties, or services  
8 defined as a "retail sale" under RCW 82.04.050 are sold, leased, or  
9 rented, valued in money, whether received in money or otherwise. No  
10 deduction from the total amount of consideration is allowed for the  
11 following: (i) The seller's cost of the property sold; (ii) the cost  
12 of materials used, labor or service cost, interest, losses, all costs  
13 of transportation to the seller, all taxes imposed on the seller, and  
14 any other expense of the seller; (iii) charges by the seller for any  
15 services necessary to complete the sale, other than delivery and  
16 installation charges; (iv) delivery charges; and (v) installation  
17 charges.

18       When tangible personal property is rented or leased under  
19 circumstances that the consideration paid does not represent a  
20 reasonable rental for the use of the articles so rented or leased, the  
21 "selling price" shall be determined as nearly as possible according to  
22 the value of such use at the places of use of similar products of like  
23 quality and character under such rules as the department may prescribe;

24       (b) "Selling price" or "sales price" does not include: Discounts,  
25 including cash, term, or coupons that are not reimbursed by a third  
26 party that are allowed by a seller and taken by a purchaser on a sale;  
27 interest, financing, and carrying charges from credit extended on the  
28 sale of tangible personal property, extended warranties, or services,  
29 if the amount is separately stated on the invoice, bill of sale, or  
30 similar document given to the purchaser; a rebate given by a  
31 manufacturer on a motor vehicle and assigned to a seller by a buyer;  
32 and any taxes legally imposed directly on the consumer that are  
33 separately stated on the invoice, bill of sale, or similar document  
34 given to the purchaser;

35       (c) "Selling price" or "sales price" includes consideration  
36 received by the seller from a third party if:

37       (i) The seller actually receives consideration from a party other

1 than the purchaser, and the consideration is directly related to a  
2 price reduction or discount on the sale;

3 (ii) The seller has an obligation to pass the price reduction or  
4 discount through to the purchaser;

5 (iii) The amount of the consideration attributable to the sale is  
6 fixed and determinable by the seller at the time of the sale of the  
7 item to the purchaser; and

8 (iv) One of the criteria in this subsection (1)(c)(iv) is met:

9 (A) The purchaser presents a coupon, certificate, or other  
10 documentation to the seller to claim a price reduction or discount  
11 where the coupon, certificate, or documentation is authorized,  
12 distributed, or granted by a third party with the understanding that  
13 the third party will reimburse any seller to whom the coupon,  
14 certificate, or documentation is presented;

15 (B) The purchaser identifies himself or herself to the seller as a  
16 member of a group or organization entitled to a price reduction or  
17 discount, however a "preferred customer" card that is available to any  
18 patron does not constitute membership in such a group; or

19 (C) The price reduction or discount is identified as a third party  
20 price reduction or discount on the invoice received by the purchaser or  
21 on a coupon, certificate, or other documentation presented by the  
22 purchaser;

23 (2)(a) "Seller" means every person, including the state and its  
24 departments and institutions, making sales at retail or retail sales to  
25 a buyer, purchaser, or consumer, whether as agent, broker, or  
26 principal, except "seller" does not mean:

27 (i) The state and its departments and institutions when making  
28 sales to the state and its departments and institutions; or

29 (ii) A professional employer organization when a covered employee  
30 coemployed with the client under the terms of a professional employer  
31 agreement engages in activities that constitute a sale at retail that  
32 is subject to the tax imposed by this chapter. In such cases, the  
33 client, and not the professional employer organization, is deemed to be  
34 the seller and is responsible for collecting and remitting the tax  
35 imposed by this chapter.

36 (b) For the purposes of (a) of this subsection, the terms "client,"  
37 "covered employee," "professional employer agreement," and

1 "professional employer organization" have the same meanings as in RCW  
2 82.04.540;

3 (3) "Buyer," "purchaser," and "consumer" include, without limiting  
4 the scope hereof, every individual, receiver, assignee, trustee in  
5 bankruptcy, trust, estate, firm, copartnership, joint venture, club,  
6 company, joint stock company, business trust, corporation, association,  
7 society, or any group of individuals acting as a unit, whether mutual,  
8 cooperative, fraternal, nonprofit, or otherwise, municipal corporation,  
9 quasi municipal corporation, and also the state, its departments and  
10 institutions and all political subdivisions thereof, irrespective of  
11 the nature of the activities engaged in or functions performed, and  
12 also the United States or any instrumentality thereof;

13 (4) "Delivery charges" means charges by the seller of personal  
14 property or services for preparation and delivery to a location  
15 designated by the purchaser of personal property or services including,  
16 but not limited to, transportation, shipping, postage, handling,  
17 crating, and packing;

18 (5) "Direct mail" means printed material delivered or distributed  
19 by United States mail or other delivery service to a mass audience or  
20 to addressees on a mailing list provided by the purchaser or at the  
21 direction of the purchaser when the cost of the items are not billed  
22 directly to the recipients. "Direct mail" includes tangible personal  
23 property supplied directly or indirectly by the purchaser to the direct  
24 mail seller for inclusion in the package containing the printed  
25 material. "Direct mail" does not include multiple items of printed  
26 material delivered to a single address;

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

33 (7) For the purposes of the taxes imposed under this chapter and  
34 under chapter 82.12 RCW, "tangible personal property" means personal  
35 property that can be seen, weighed, measured, felt, or touched, or that  
36 is in any other manner perceptible to the senses. Tangible personal  
37 property includes electricity, water, gas, steam, and prewritten  
38 computer software;

1           (8) "Extended warranty" has the same meaning as in RCW  
2 82.04.050(7).

3           NEW SECTION.   **Sec. 3.** Section 1 of this act expires July 1, 2008.

4           NEW SECTION.   **Sec. 4.** Section 2 of this act takes effect July 1,  
5 2008.

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