
HOUSE BILL 2066

State of Washington

61st Legislature

2009 Regular Session

By Representatives Orcutt, Newhouse, Hope, McCune, Warnick, Kelley,
and Chandler

Read first time 02/09/09. Referred to Committee on Finance.

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

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

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

7 For the purposes of this chapter:

8 (1)(a) "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: (i) The seller's cost of the property sold; (ii) the cost
16 of materials used, labor or service cost, interest, losses, all costs
17 of transportation to the seller, all taxes imposed on the seller, and
18 any other expense of the seller; (iii) charges by the seller for any

1 services necessary to complete the sale, other than delivery and
2 installation charges; (iv) delivery charges; and (v) installation
3 charges.

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

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

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

23 (i) The seller actually receives consideration from a party other
24 than the purchaser, and the consideration is directly related to a
25 price reduction or discount on the sale;

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

28 (iii) The amount of the consideration attributable to the sale is
29 fixed and determinable by the seller at the time of the sale of the
30 item to the purchaser; and

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

32 (A) The purchaser presents a coupon, certificate, or other
33 documentation to the seller to claim a price reduction or discount
34 where the coupon, certificate, or documentation is authorized,
35 distributed, or granted by a third party with the understanding that
36 the third party will reimburse any seller to whom the coupon,
37 certificate, or documentation is presented;

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

5 (C) The price reduction or discount is identified as a third party
6 price reduction or discount on the invoice received by the purchaser or
7 on a coupon, certificate, or other documentation presented by the
8 purchaser;

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

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

15 (ii) A professional employer organization when a covered employee
16 coemployed with the client under the terms of a professional employer
17 agreement engages in activities that constitute a sale at retail that
18 is subject to the tax imposed by this chapter. In such cases, the
19 client, and not the professional employer organization, is deemed to be
20 the seller and is responsible for collecting and remitting the tax
21 imposed by this chapter.

22 (b) For the purposes of (a) of this subsection, the terms "client,"
23 "covered employee," "professional employer agreement," and
24 "professional employer organization" have the same meanings as in RCW
25 82.04.540;

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

36 (4) "Delivery charges" means charges by the seller of personal
37 property or services for preparation and delivery to a location

1 designated by the purchaser of personal property or services including,
2 but not limited to, transportation, shipping, postage, handling,
3 crating, and packing;

4 (5) "Direct mail" means printed material delivered or distributed
5 by United States mail or other delivery service to a mass audience or
6 to addressees on a mailing list provided by the purchaser or at the
7 direction of the purchaser when the cost of the items are not billed
8 directly to the recipients. "Direct mail" includes tangible personal
9 property supplied directly or indirectly by the purchaser to the direct
10 mail seller for inclusion in the package containing the printed
11 material. "Direct mail" does not include multiple items of printed
12 material delivered to a single address;

13 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax
14 year," "taxable year," "person," "company," "sale," "sale at retail,"
15 "retail sale," "sale at wholesale," "wholesale," "business," "engaging
16 in business," "cash discount," "successor," "consumer," "in this state"
17 and "within this state" shall apply equally to the provisions of this
18 chapter;

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

25 (8) "Extended warranty" has the same meaning as in RCW
26 82.04.050(7).

27 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 July 1, 2009.

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