

WSR 21-01-130

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 16, 2020, 9:27 a.m., effective January 16, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This proposal corrects typographical errors in subsection (5)(a). The two instances where the subsection states "\$2,000" should state "20 percent."

Citation of Rules Affected by this Order: Amending WAC 458-20-17802.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 82.12.045.

Adopted under notice filed as WSR 20-20-006 on September 24, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 16, 2020.

Atif Aziz
Rules Coordinator

OTS-2632.1

AMENDATORY SECTION (Amending WSR 20-14-064, filed 6/26/20, effective 10/1/20)

WAC 458-20-17802 Collection of use tax by county auditors and department of licensing—Measure of tax. (1) **Introduction.** The department of revenue (department) has authorized county auditors and the department of licensing to collect the use tax imposed by chapter 82.12 RCW when a person applies to transfer the certificate of title of a vehicle acquired without the payment of sales tax. See RCW 82.12.045. This rule explains how county auditors, their subagents, and the department of licensing determine the measure of the use tax. This rule does not relieve a seller registered with the department of the statutory requirement to collect sales tax when selling tangible personal property, including vehicles. RCW 82.08.020 and 82.08.0251. The use tax reporting responsibilities of Washington residents in other situations and the general nature of the use tax are addressed in WAC 458-20-178 (Use tax). The application of tax to vehicles acquired

by Indians and Indian tribes is discussed in WAC 458-20-192 (Indians—Indian country).

Vehicle licensing locations and information about vehicle titles and registration are available from the department of licensing on their website at: dol.wa.gov. This information is also available by contacting the local county auditor's office listed in the government pages of a telephone directory.

(2) **What is use tax based on?** For purposes of computing the amount of use tax due, the value of the article used is the measure of tax. The value of the article used is generally the purchase price. If the purchase price does not represent the true value of the article used, the value must be determined as nearly as possible according to the retail selling price at place of use of similar vehicles of like quality and character. RCW 82.12.010.

(3) **Use of automated system to verify measure of tax.** When a person applies to transfer the certificate of title of a vehicle, county auditors, their subagents, or the department of licensing must verify that the purchase price represents the true value. In doing so, county auditors, their subagents, or the department of licensing compare the vehicle's purchase price to the average retail value of comparable vehicles using an automated valuing system. The automated valuing system identifies the average retail value using a database that is provided by a regional industry standard source specializing in providing valuation services to local, state, and federal governments, and the private sector.

In limited situations, the automated valuing system's database may not provide the average retail value for a vehicle. For example, the automated valuing system's database does not provide average retail value information for collectible vehicles or vehicles that are over twenty years of age. In the absence of an average retail value, county auditors, their subagents, or the department of licensing will determine the true value as nearly as possible according to the retail selling price at place of use of similar vehicles of like character and quality. To assist in this process, the department of revenue and the department of licensing may approve the use of alternative valuing authorities as necessary.

(4) **What happens when the purchase price is presumed to represent the true value?** County auditors, their subagents, or the department of licensing will use the purchase price to compute the amount of use tax due when the purchase price represents the vehicle's true value. County auditors, their subagents, or department of licensing will presume the purchase price represents the vehicle's true value if one of the following conditions is met:

(a) The vehicle's average retail value, as provided by the automated valuing system, is less than \$7,500.

For example, a person buys a vehicle for \$2,800. The automated valuing system indicates that the vehicle's average retail value is \$4,900. The purchase price is presumed to represent the vehicle's true value because the average retail value is less than \$7,500.

(b) The vehicle's purchase price is not more than 20 percent below the average retail value as provided by the automated valuing system.

For example, a person buys a used vehicle for \$17,000. The automated valuing system indicates the vehicle's average retail value is \$20,000. When compared to the average retail value, the purchase price is not more than 20 percent (\$4,000) below the average retail value.

Consequently, the purchase price is presumed to represent the vehicle's true value.

(5) **What happens when the purchase price is not presumed to represent the true value?** If the vehicle's purchase price is not presumed to be the true value as explained in subsection (4) of this rule, a person may remit use tax based on the average retail value as indicated by the automated valuing system or substantiate the true value of the vehicle using any one of the following methods.

(a) **Industry-accepted pricing guide.** A person applying to transfer a certificate of title may provide the county auditor, a subagent, or the department of licensing with documentation from one of the various industry-accepted pricing guides. The value from the industry-accepted pricing guide must represent the retail value of a similarly equipped vehicle of the same make, model, and year in a comparable condition. The purchase price is presumed to represent the vehicle's true value if the purchase price is not more than (~~(\$2,000)~~) 20 percent below the retail value.

For example, a person buys a vehicle for \$6,500. The automated valuing system indicates that the vehicle's average retail value is \$8,700. An industry-accepted pricing guide shows that the retail value of a similarly-equipped vehicle in a comparable condition of the same make, model, and year is \$8,000. When compared to the retail value established by the industry-accepted pricing guide, the purchase price is not more than (~~(\$2,000)~~) 20 percent (\$1,600 in this case) below the retail value. Consequently, the purchase price is presumed to represent the vehicle's true value.

(b) **Declaration of buyer and seller.** A person applying to transfer a certificate of title may provide to the county auditor, a subagent, or the department of licensing a Declaration of Buyer and Seller Regarding Value of Used Vehicle Sale (REV 32 2501) to substantiate that the purchase price is the true value of the vehicle. The declaration must be signed by both the buyer and the seller and must certify to the purchase price and the vehicle's condition under penalty of perjury. The department may review a declaration and assess additional tax, interest, and penalties. A person may seek review of an assessment to the department as provided in WAC 458-20-100 (Informal administrative reviews).

The declaration is available on the department's website at dor.wa.gov. It is also available at all vehicle licensing locations, department's field offices, or by writing:

Department of Revenue
Taxpayer Services
P.O. Box 47478
Olympia, WA 98504-7478

(c) **Written appraisal.** A person applying to transfer a certificate of title may present to the county auditor, a subagent, or the department of licensing a written appraisal from an automobile dealer, insurance or other vehicle appraiser to substantiate the true value of the vehicle. If an automobile dealer performs the appraisal, the dealer must be currently licensed with the department of licensing dealer services division or be a licensed vehicle dealer in another jurisdiction.

The written appraisal must appear on company stationery or have the business card attached and include the vehicle description, including the vehicle make, model, and identification number (VIN). The person performing the appraisal must certify that the stated value

represents the retail selling price of a similarly equipped vehicle of the same make, model, and year in a comparable condition. The department may review an appraisal and assess additional tax, interest, and penalties. A person may seek review of an assessment to the department as provided in WAC 458-20-100 (Informal administrative reviews).

(d) **Declaration of use tax.** A person applying to transfer a certificate of title may present to the county auditor, a subagent, or the department of licensing a Declaration of Use Tax (REV 32 2486e) to substantiate the true value of the vehicle. An authorized employee of the department must complete the declaration. Determining the true value may require a visual inspection that is not available at all department locations.

(e) **Repair estimate.** A person applying to transfer a certificate of title may present to the county auditor, a subagent, or the department of licensing a written repair estimate, prepared by an auto repair or auto body repair business. This estimate will then be used to assist with determining the true value of the vehicle. The written estimate must appear on company stationery or have the business card attached. In addition, the written estimate must include the vehicle description, including the vehicle make, model, and identification number (VIN), and an itemized list of repairs. The department may review an appraisal and assess additional tax, interest, and penalties. A person may seek review of an assessment to the department as provided in WAC 458-20-100 (Informal administrative reviews).

The purchase price is presumed to represent the true value if the total of the purchase price and the repair estimate is not more than 20 percent below the average retail value. For example, a person purchases a vehicle with extensive bumper damage for \$13,700. The automated valuing system indicates that the vehicle's average retail value is \$18,000. An estimate from an auto body repair business indicates a cost of \$2,500 to repair the bumper damage. The purchase price is presumed to represent the vehicle's true value because when the total of the purchase price and the repair estimate ($\$13,700 + \$2,500 = \$16,200$) is compared to the average retail value, the total is not more than 20 percent below the average retail value (\$18,000).

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.12.045. WSR 20-14-064, § 458-20-17802, filed 6/26/20, effective 10/1/20. Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 16-12-075, § 458-20-17802, filed 5/27/16, effective 6/27/16. Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.12.045. WSR 14-21-104, § 458-20-17802, filed 10/15/14, effective 12/14/14. Statutory Authority: RCW 82.32.300 and 82.12.045. WSR 01-22-008, § 458-20-17802, filed 10/26/01, effective 11/26/01.]