
HOUSE BILL 2966

State of Washington

52nd Legislature

1992 Regular Session

By Representative Wang

Read first time 02/05/92. Referred to Committee on Revenue.

1 AN ACT Relating to taxation of retail sales in respect to
2 contractors; amending RCW 82.04.050, 82.04.190, 82.04.470, and
3 82.08.020; adding a new section to chapter 82.04 RCW; adding a new
4 section to chapter 82.08 RCW; creating a new section; and providing an
5 effective date.

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

7 NEW SECTION. **Sec. 1.** The purpose of this act is to facilitate
8 actual collection of retail sales tax by requiring registered or
9 licensed contractors to pay sales tax on all materials at time of
10 purchase. When the contractor is required to collect sales tax on
11 materials and labor at the time of sale to the final consumer, a
12 deduction is allowed for sales tax previously paid on materials and
13 materials that are resold. This act is not intended to increase the

1 total tax liability of registered and licensed contractors beyond that
2 due under the law before the effective date of this act.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
4 to read as follows:

5 "Registered or licensed contractor" includes contractors registered
6 under chapter 18.27 RCW, electricians licensed under chapter 19.28 RCW,
7 and plumbers licensed under chapter 18.106 RCW or licensed by a
8 political subdivision of the state of Washington.

9 **Sec. 3.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to read
10 as follows:

11 (1) "Sale at retail" or "retail sale" means every sale of tangible
12 personal property (including articles produced, fabricated, or
13 imprinted) to all persons irrespective of the nature of their business
14 and including, among others, without limiting the scope hereof, persons
15 who install, repair, clean, alter, improve, construct, or decorate real
16 or personal property of or for consumers other than a sale to a person
17 who (a) purchases for the purpose of resale as tangible personal
18 property in the regular course of business without intervening use by
19 such person, or (b) installs, repairs, cleans, alters, imprints,
20 improves, constructs, or decorates real or personal property of or for
21 consumers, if such tangible personal property becomes an ingredient or
22 component of such real or personal property without intervening use by
23 such person, or (c) purchases for the purpose of consuming the property
24 purchased in producing for sale a new article of tangible personal
25 property or substance, of which such property becomes an ingredient or
26 component or is a chemical used in processing, when the primary purpose
27 of such chemical is to create a chemical reaction directly through
28 contact with an ingredient of a new article being produced for sale, or

1 (d) purchases for the purpose of consuming the property purchased in
2 producing ferrosilicon which is subsequently used in producing
3 magnesium for sale, if the primary purpose of such property is to
4 create a chemical reaction directly through contact with an ingredient
5 of ferrosilicon, or (e) purchases for the purpose of providing the
6 property to consumers as part of competitive telephone service, as
7 defined in RCW 82.04.065. The term shall include every sale of
8 tangible personal property which is used or consumed or to be used or
9 consumed in the performance of any activity classified as a "sale at
10 retail" or "retail sale" even though such property is resold or
11 utilized as provided in (a), (b), (c), (d), or (e) (~~above~~) of this
12 subsection following such use. The term also includes every sale of
13 tangible personal property to a registered or licensed contractor, even
14 though such property is resold or utilized as provided in (a), (b),
15 (c), (d), or (e) of this subsection. The term also means every sale of
16 tangible personal property to persons engaged in any business which is
17 taxable under RCW 82.04.280, subsections (2) and (7) and RCW 82.04.290.

18 (2) The term "sale at retail" or "retail sale" shall include the
19 sale of or charge made for tangible personal property consumed and/or
20 for labor and services rendered in respect to the following: (a) The
21 installing, repairing, cleaning, altering, imprinting, or improving of
22 tangible personal property of or for consumers, including charges made
23 for the mere use of facilities in respect thereto, but excluding
24 charges made for the use of coin operated laundry facilities when such
25 facilities are situated in an apartment house, hotel, motel, rooming
26 house, trailer camp or tourist camp for the exclusive use of the
27 tenants thereof, and also excluding sales of laundry service to members
28 by nonprofit associations composed exclusively of nonprofit hospitals,
29 and excluding services rendered in respect to live animals, birds and
30 insects; (b) the constructing, repairing, decorating, or improving of

1 new or existing buildings or other structures under, upon, or above
2 real property of or for consumers or registered or licensed
3 contractors, including the installing or attaching of any article of
4 tangible personal property therein or thereto, whether or not such
5 personal property becomes a part of the realty by virtue of
6 installation, and shall also include the sale of services or charges
7 made for the clearing of land and the moving of earth excepting the
8 mere leveling of land used in commercial farming or agriculture; (c)
9 the charge for labor and services rendered in respect to constructing,
10 repairing, or improving any structure upon, above, or under any real
11 property owned by an owner who conveys the property by title,
12 possession, or any other means to the person performing such
13 construction, repair, or improvement for the purpose of performing such
14 construction, repair, or improvement and the property is then
15 reconveyed by title, possession, or any other means to the original
16 owner; (d) the sale of or charge made for labor and services rendered
17 in respect to the cleaning, fumigating, razing or moving of existing
18 buildings or structures, but shall not include the charge made for
19 janitorial services; and for purposes of this section the term
20 "janitorial services" shall mean those cleaning and caretaking services
21 ordinarily performed by commercial janitor service businesses
22 including, but not limited to, wall and window washing, floor cleaning
23 and waxing, and the cleaning in place of rugs, drapes and upholstery.
24 The term "janitorial services" does not include painting, papering,
25 repairing, furnace or septic tank cleaning, snow removal or
26 sandblasting; (e) the sale of or charge made for labor and services
27 rendered in respect to automobile towing and similar automotive
28 transportation services, but not in respect to those required to report
29 and pay taxes under chapter 82.16 RCW; (f) the sale of and charge made
30 for the furnishing of lodging and all other services by a hotel,

1 rooming house, tourist court, motel, trailer camp, and the granting of
2 any similar license to use real property, as distinguished from the
3 renting or leasing of real property, and it shall be presumed that the
4 occupancy of real property for a continuous period of one month or more
5 constitutes a rental or lease of real property and not a mere license
6 to use or enjoy the same; (g) the sale of or charge made for tangible
7 personal property, labor and services to persons taxable under (a),
8 (b), (c), (d), (e), and (f) ((above)) of this subsection when such
9 sales or charges are for property, labor and services which are used or
10 consumed in whole or in part by such persons in the performance of any
11 activity defined as a "sale at retail" or "retail sale" even though
12 such property, labor and services may be resold after such use or
13 consumption. Nothing contained in this ((paragraph)) subsection (2)
14 shall be construed to modify ((the first paragraph)) subsection (1) of
15 this section and nothing contained in ((the first paragraph))
16 subsection (1) of this section shall be construed to modify this
17 ((paragraph)) subsection (2).

18 (3) The term "sale at retail" or "retail sale" shall include the
19 sale of or charge made for personal business or professional services
20 including amounts designated as interest, rents, fees, admission, and
21 other service emoluments however designated, received by persons
22 engaging in the following business activities: (a) Amusement and
23 recreation businesses including but not limited to golf, pool,
24 billiards, skating, bowling, ski lifts and tows and others; (b)
25 abstract, title insurance and escrow businesses; (c) credit bureau
26 businesses; (d) automobile parking and storage garage businesses.

27 (4) The term shall also include the renting or leasing of tangible
28 personal property to consumers.

29 (5) The term shall also include the providing of telephone service,
30 as defined in RCW 82.04.065, to consumers.

1 (6) The term shall not include the sale of or charge made for labor
2 and services rendered in respect to the building, repairing, or
3 improving of any street, place, road, highway, easement, right of way,
4 mass public transportation terminal or parking facility, bridge,
5 tunnel, or trestle which is owned by a municipal corporation or
6 political subdivision of the state or by the United States and which is
7 used or to be used primarily for foot or vehicular traffic including
8 mass transportation vehicles of any kind. The term shall also not
9 include sales of feed, seed, seedlings, fertilizer, and spray materials
10 to persons who participate in the federal conservation reserve program
11 or its successor administered by the United States department of
12 agriculture, or to persons for the purpose of producing for sale any
13 agricultural product whatsoever, including plantation Christmas trees
14 and milk, eggs, wool, fur, meat, honey, or other substances obtained
15 from animals, birds, or insects but only when such production and
16 subsequent sale are exempt from tax under RCW 82.04.330, nor shall it
17 include sales of chemical sprays or washes to persons for the purpose
18 of post-harvest treatment of fruit for the prevention of scald, fungus,
19 mold, or decay.

20 (7) The term shall not include the sale of or charge made for labor
21 and services rendered in respect to the constructing, repairing,
22 decorating, or improving of new or existing buildings or other
23 structures under, upon, or above real property of or for the United
24 States, any instrumentality thereof, or a county or city housing
25 authority created pursuant to chapter 35.82 RCW, including the
26 installing, or attaching of any article of tangible personal property
27 therein or thereto, whether or not such personal property becomes a
28 part of the realty by virtue of installation. Nor shall the term
29 include the sale of services or charges made for the clearing of land

1 and the moving of earth of or for the United States, any
2 instrumentality thereof, or a county or city housing authority.

3 **Sec. 4.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to read
4 as follows:

5 "Consumer" means the following:

6 (1) Any person who purchases, acquires, owns, holds, or uses any
7 article of tangible personal property irrespective of the nature of the
8 person's business and including, among others, without limiting the
9 scope hereof, persons who install, repair, clean, alter, improve,
10 construct, or decorate real or personal property of or for consumers
11 other than for the purpose (a) of resale as tangible personal property
12 in the regular course of business or (b) of incorporating such property
13 as an ingredient or component of real or personal property when
14 installing, repairing, cleaning, altering, imprinting, improving,
15 constructing, or decorating such real or personal property of or for
16 consumers or (c) of consuming such property in producing for sale a new
17 article of tangible personal property or a new substance, of which such
18 property becomes an ingredient or component or as a chemical used in
19 processing, when the primary purpose of such chemical is to create a
20 chemical reaction directly through contact with an ingredient of a new
21 article being produced for sale or (d) purchases for the purpose of
22 consuming the property purchased in producing ferrosilicon which is
23 subsequently used in producing magnesium for sale, if the primary
24 purpose of such property is to create a chemical reaction directly
25 through contact with an ingredient of ferrosilicon;

26 (2) Any person engaged in any business activity taxable under RCW
27 82.04.290 and any person who purchases, acquires, or uses any telephone
28 service as defined in RCW 82.04.065, other than for resale in the
29 regular course of business;

1 (3) Any person engaged in the business of contracting for the
2 building, repairing or improving of any street, place, road, highway,
3 easement, right of way, mass public transportation terminal or parking
4 facility, bridge, tunnel, or trestle which is owned by a municipal
5 corporation or political subdivision of the state of Washington or by
6 the United States and which is used or to be used primarily for foot or
7 vehicular traffic including mass transportation vehicles of any kind as
8 defined in RCW 82.04.280, in respect to tangible personal property when
9 such person incorporates such property as an ingredient or component of
10 such publicly owned street, place, road, highway, easement, right of
11 way, mass public transportation terminal or parking facility, bridge,
12 tunnel, or trestle by installing, placing or spreading the property in
13 or upon the right of way of such street, place, road, highway,
14 easement, bridge, tunnel, or trestle or in or upon the site of such
15 mass public transportation terminal or parking facility;

16 (4) Any person who is an owner, lessee or has the right of
17 possession to or an easement in real property which is being
18 constructed, repaired, decorated, improved, or otherwise altered by a
19 person engaged in business, excluding only (a) municipal corporations
20 or political subdivisions of the state in respect to labor and services
21 rendered to their real property which is used or held for public road
22 purposes, and (b) the United States, instrumentalities thereof, and
23 county and city housing authorities created pursuant to chapter 35.82
24 RCW in respect to labor and services rendered to their real property.
25 Nothing contained in this or any other subsection of this definition
26 shall be construed to modify any other definition of "consumer";

27 (5) Any person who is an owner, lessee, or has the right of
28 possession to personal property which is being constructed, repaired,
29 improved, cleaned, imprinted, or otherwise altered by a person engaged
30 in business;

1 (6) Any person engaged in the business of constructing, repairing,
2 decorating, or improving new or existing buildings or other structures
3 under, upon, or above real property of or for the United States, any
4 instrumentality thereof, or a county or city housing authority created
5 pursuant to chapter 35.82 RCW, including the installing or attaching of
6 any article of tangible personal property therein or thereto, whether
7 or not such personal property becomes a part of the realty by virtue of
8 installation; also, any person engaged in the business of clearing land
9 and moving earth of or for the United States, any instrumentality
10 thereof, or a county or city housing authority created pursuant to
11 chapter 35.82 RCW. Any such person shall be a consumer within the
12 meaning of this subsection in respect to tangible personal property
13 incorporated into, installed in, or attached to such building or other
14 structure by such person;

15 (7) Any registered or licensed contractor.

16 **Sec. 5.** RCW 82.04.470 and 1983 2nd ex.s. c 3 s 29 are each amended
17 to read as follows:

18 (1) Unless a seller has taken from the purchaser a resale
19 certificate signed by, and bearing the name and address and
20 registration number of the purchaser to the effect that the property or
21 service was purchased for resale, or unless the nature of the
22 transaction is clearly shown as a sale at wholesale by the books and
23 records of the taxpayer in such other manner as the department of
24 revenue shall by regulation provide, the burden of proving that a sale
25 of tangible personal property, or of telephone service as defined in
26 RCW 82.04.065, was not a sale at retail shall be upon the person who
27 made it.

1 (2) A seller shall not accept resale certificates from, nor make
2 sales without collection of retail sales tax to, registered or licensed
3 contractors.

4 **Sec. 6.** RCW 82.08.020 and 1985 c 32 s 1 are each amended to read
5 as follows:

6 (1) There is levied and there shall be collected a tax on each
7 retail sale in this state equal to six and five-tenths percent of the
8 selling price.

9 (2) The tax imposed under this chapter shall apply to successive
10 retail sales of the same property or service, without regard to any tax
11 previously paid on the property or service or component or ingredient
12 thereof.

13 (3) The rate provided in this section applies to taxes imposed
14 under chapter 82.12 RCW as provided in RCW 82.12.020.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08 RCW
16 to read as follows:

17 (1) A deduction is allowed against the taxes imposed under this
18 chapter in an amount equal to taxes previously paid under this chapter
19 or chapter 82.12 RCW by a registered or licensed contractor in respect
20 to tangible personal property or services that are resold, in the same
21 form or as an ingredient or component, without intervening use or
22 consumption by the contractor.

23 (2) This section is intended to clarify existing law as to resales
24 by registered and licensed contractors, and is not intended to expand
25 or restrict the availability of tax deductions or credits for resales
26 by other persons.

27 NEW SECTION. **Sec. 8.** This act shall take effect July 1, 1992.