
HOUSE BILL 1119

State of Washington 57th Legislature 2001 Regular Session

By Representatives Schoesler, Gombosky, Ahern and Schindler

Read first time 01/17/2001. Referred to Committee on Finance.

1 AN ACT Relating to the business and occupation taxation of sales of
2 new and used motor vehicles; adding new sections to chapter 82.04 RCW;
3 adding a new section to chapter 82.08 RCW; creating a new section;
4 prescribing penalties; providing an effective date; and declaring an
5 emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that dealers
8 located outside Washington sell motor vehicles to Washington customers
9 and use in-state dealers to facilitate the sales by preparing the
10 vehicles for delivery and delivering them to the buyers in this state.
11 The legislature further recognizes that when a selling dealer has a
12 physical presence or "nexus" in this state it requires payment of the
13 tax imposed by chapter 82.04 RCW. Selling dealers have nexus in
14 Washington when the vehicles are located in this state at the time of
15 the sale and are received by the customer or the customer's agent in
16 this state. The legislature further finds that businesses with nexus
17 are entitled to an easy, simple, and efficient method to account for
18 and pay the tax imposed by chapter 82.04 RCW on these sales.

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

3 The definitions in this section apply to sections 3 and 4 of this
4 act.

5 (1) "Used vehicle" or "used motor vehicles" has the meaning
6 ascribed in RCW 46.04.660.

7 (2) "New vehicle" or "new motor vehicle" has the meaning ascribed
8 in RCW 46.70.011(19).

9 (3) "Courtesy dealer" means any licensed motor vehicle dealer
10 authorized to prepare or deliver a new motor vehicle to a customer in
11 this state.

12 (4) "Financial institution" means a corporation, partnership, or
13 other business organization chartered under Title 30, 31, 32, or 33
14 RCW, or under the national bank act, as amended, the homeowners loan
15 act, as amended, or the federal credit union act, as amended, or a
16 holding company of any business organization that is subject to the
17 bank holding company act, as amended, or the homeowners loan act, as
18 amended, or a subsidiary or affiliate wholly owned or controlled by one
19 or more financial institutions, as well as a lender approved by the
20 United States secretary of housing and urban development for
21 participation in any mortgage insurance program under the national
22 housing act, as amended.

23 (5) "Department" means the department of revenue.

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

26 (1) This chapter does not apply to amounts derived from wholesale
27 sales of used motor vehicles, except for sales made by financial
28 institutions.

29 (2) This chapter does not apply to the amount derived from a retail
30 sale of a used vehicle that is purchased by the lessee of the vehicle
31 at the conclusion of the lease agreement under an option to purchase
32 provision in that agreement.

33 (3) This chapter does not apply to amounts derived by a new car
34 dealer from wholesale sales of new motor vehicles of the same make to
35 other new car dealers where the sales enable the dealers to adjust
36 their inventory levels as long as the amount paid by the purchasing
37 dealer does not exceed the amount paid by the selling dealer in the
38 acquisition of the vehicle, however, the selling dealer may add

1 reasonable expenses for the preparation of the vehicle for sale or
2 transfer.

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

5 (1) In the payment of the tax imposed by this chapter on new motor
6 vehicles sold to Washington customers that are delivered to the
7 customer through courtesy dealers located in this state, the selling
8 dealer may designate the courtesy dealer as the agent for the selling
9 dealer in reporting and paying the tax imposed by this chapter. Upon
10 this designation, it is the duty of each courtesy dealer to pay the tax
11 imposed by this chapter to the department when the courtesy dealer
12 files its tax return, except where the selling dealer advises the
13 courtesy dealer in writing that it will pay the tax directly to the
14 department. Each courtesy dealer who acts as the agent for the selling
15 dealer in reporting, paying, and remitting the tax imposed by this
16 chapter must at the time of paying and remitting its own taxes imposed
17 by this chapter pay the tax due on the transaction under this section.
18 The courtesy dealer is authorized to withhold payment to the selling
19 dealer out of the proceeds of the sale an amount equal to the tax
20 imposed by this chapter. Amounts withheld by the courtesy dealer are
21 deemed to be held in trust by the courtesy dealer until paid to the
22 department, and any courtesy dealer who appropriates or converts the
23 amount withheld to the courtesy dealer's own use or to any use other
24 than the payment of the tax to the extent that the money withheld is
25 not available for payment on the due date is guilty of a gross
26 misdemeanor. Any selling dealer who fails to designate a courtesy
27 dealer as its agent for payment of the tax imposed by this chapter must
28 register with the department and report and pay tax in the same manner
29 as other registered businesses. Selling dealers who designate courtesy
30 dealers as their agents for payment of the tax imposed by this chapter
31 and whose only taxable activity in Washington is selling through
32 designated courtesy dealers are relieved of the duty to register with
33 the department.

34 (2) This section is construed as cumulative of other methods
35 prescribed in chapter 82.04 through 82.32 RCW, inclusive, for the
36 collection of the tax imposed by this chapter. The department has
37 power to adopt rules necessary to administer this section.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08 RCW
2 to read as follows:

3 Every courtesy dealer, as defined in section 2 of this act, under
4 section 4 of this act is deemed the seller within the meaning of this
5 chapter and subject to all its provisions with respect to those sales
6 made by selling dealers for which the courtesy dealer reports and pays
7 the tax imposed by chapter 82.04 RCW. Every courtesy dealer must
8 collect and remit the amount of tax due under this chapter with respect
9 to those sales made by selling dealers for which the courtesy dealer
10 reports and pays the tax imposed by chapter 82.04 RCW.

11 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 July 1, 2001.

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