
SENATE BILL 6611

State of Washington

58th Legislature

2004 Regular Session

By Senators Honeyford and Benton

Read first time 01/27/2004. Referred to Committee on Ways & Means.

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; providing an expiration date; and declaring an
4 emergency.

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

6 **Sec. 1.** RCW 82.08.010 and 1985 c 38 s 3 are each amended to read
7 as follows:

8 For the purposes of this chapter:

9 (1) "Selling price" means the consideration, whether money,
10 credits, rights, or other property except trade-in property of like
11 kind, expressed in the terms of money paid or delivered by a buyer to
12 a seller without any deduction on account of the cost of tangible
13 property sold, the cost of materials used, labor costs, interest,
14 discount, delivery costs, taxes other than taxes imposed under this
15 chapter if the seller advertises the price as including the tax or that
16 the seller is paying the tax, or any other expenses whatsoever paid or
17 accrued and without any deduction on account of losses; but shall not
18 include the amount of cash discount actually taken by a buyer or a

1 rebate given by a manufacturer and assigned to a seller by a buyer; and
2 shall be subject to modification to the extent modification is provided
3 for in RCW 82.08.080.

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 of revenue may
10 prescribe;

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

16 (3) "Buyer" and "consumer" include, without limiting the scope
17 hereof, every individual, receiver, assignee, trustee in bankruptcy,
18 trust, estate, firm, copartnership, joint venture, club, company, joint
19 stock company, business trust, corporation, association, society, or
20 any group of individuals acting as a unit, whether mutual, cooperative,
21 fraternal, nonprofit, or otherwise, municipal corporation, quasi
22 municipal corporation, and also the state, its departments and
23 institutions and all political subdivisions thereof, irrespective of
24 the nature of the activities engaged in or functions performed, and
25 also the United States or any instrumentality thereof;

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

32 **Sec. 2.** RCW 82.08.010 and 2003 c 168 s 101 are each amended to
33 read as follows:

34 For the purposes of this chapter:

35 (1) "Selling price" includes "sales price." "Sales price" means
36 the total amount of consideration, except trade-in property of like
37 kind, including cash, credit, property, and services, for which

1 tangible personal property or services defined as a "retail sale" under
2 RCW 82.04.050 are sold, leased, or rented, valued in money, whether
3 received in money or otherwise. No deduction from the total amount of
4 consideration is allowed for the following: (a) The seller's cost of
5 the property sold; (b) the cost of materials used, labor or service
6 cost, interest, losses, all costs of transportation to the seller, all
7 taxes imposed on the seller, and any other expense of the seller; (c)
8 charges by the seller for any services necessary to complete the sale,
9 other than delivery and installation charges; (d) delivery charges; (e)
10 installation charges; and (f) the value of exempt tangible personal
11 property given to the purchaser where taxable and exempt tangible
12 personal property have been bundled together and sold by the seller as
13 a single product or piece of merchandise.

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

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

30 (2) "Seller" means every person, including the state and its
31 departments and institutions, making sales at retail or retail sales to
32 a buyer, purchaser, or consumer, whether as agent, broker, or
33 principal, except "seller" does not mean the state and its departments
34 and institutions when making sales to the state and its departments and
35 institutions;

36 (3) "Buyer," "purchaser," and "consumer" include, without limiting
37 the scope hereof, every individual, receiver, assignee, trustee in
38 bankruptcy, trust, estate, firm, copartnership, joint venture, club,

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

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

13 (5) 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 (6) 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 NEW SECTION. **Sec. 3.** Section 1 of this act expires July 1, 2004.

26 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect July 1,
27 2004.

28 NEW SECTION. **Sec. 5.** Section 1 of this act is necessary for the
29 immediate preservation of the public peace, health, or safety, or
30 support of the state government and its existing public institutions,
31 and takes effect immediately.

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