

---

HOUSE BILL 2638

---

State of Washington

59th Legislature

2006 Regular Session

By Representatives Curtis, Haler, Blake, Cox, Serben, Morrell, Anderson, Shabro, Woods, Alexander, Orcutt, Nixon, Rodne, Clibborn, McDonald, Moeller, Condotta and Wallace

Read first time 01/11/2006. Referred to Committee on Finance.

1 AN ACT Relating to the valuation of motor vehicles for use  
2 taxation; amending RCW 82.12.010 and 82.12.045; adding a new section to  
3 chapter 82.12 RCW; creating new sections; and providing an effective  
4 date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that motor vehicle  
7 sales between private parties often involve transactions of motor  
8 vehicles where sales or use tax has already been paid. The legislature  
9 further finds that requiring the payment of use tax whenever a transfer  
10 of ownership for a motor vehicle occurs is multiple taxation on the  
11 same product. This act is intended to reduce the use tax burden on  
12 sales of motor vehicles between private parties by requiring that the  
13 purchase price be used for measure of use tax liability.

14 **Sec. 2.** RCW 82.12.010 and 2005 c 514 s 104 are each amended to  
15 read as follows:

16 For the purposes of this chapter:

17 (1) "Purchase price" means the same as sales price as defined in  
18 RCW 82.08.010((-));

1           (2)(a) "Value of the article used" shall be the purchase price for  
2 the article of tangible personal property, the use of which is taxable  
3 under this chapter. The term also includes, in addition to the  
4 purchase price, the amount of any tariff or duty paid with respect to  
5 the importation of the article used. (~~In case~~) Unless expressly  
6 provided otherwise, if the article used is acquired by lease or by gift  
7 or is extracted, produced, or manufactured by the person using the same  
8 or is sold under conditions wherein the purchase price does not  
9 represent the true value thereof, the value of the article used shall  
10 be determined as nearly as possible according to the retail selling  
11 price at place of use of similar products of like quality and character  
12 under such rules as the department may prescribe.

13           (b) In case the articles used are acquired by bailment, the value  
14 of the use of the articles so used shall be in an amount representing  
15 a reasonable rental for the use of the articles so bailed, determined  
16 as nearly as possible according to the value of such use at the places  
17 of use of similar products of like quality and character under such  
18 rules as the department of revenue may prescribe. In case any such  
19 articles of tangible personal property are used in respect to the  
20 construction, repairing, decorating, or improving of, and which become  
21 or are to become an ingredient or component of, new or existing  
22 buildings or other structures under, upon, or above real property of or  
23 for the United States, any instrumentality thereof, or a county or city  
24 housing authority created pursuant to chapter 35.82 RCW, including the  
25 installing or attaching of any such articles therein or thereto,  
26 whether or not such personal property becomes a part of the realty by  
27 virtue of installation, then the value of the use of such articles so  
28 used shall be determined according to the retail selling price of such  
29 articles, or in the absence of such a selling price, as nearly as  
30 possible according to the retail selling price at place of use of  
31 similar products of like quality and character or, in the absence of  
32 either of these selling price measures, such value may be determined  
33 upon a cost basis, in any event under such rules as the department of  
34 revenue may prescribe.

35           (c) In the case of articles owned by a user engaged in business  
36 outside the state which are brought into the state for no more than one  
37 hundred eighty days in any period of three hundred sixty-five  
38 consecutive days and which are temporarily used for business purposes

1 by the person in this state, the value of the article used shall be an  
2 amount representing a reasonable rental for the use of the articles,  
3 unless the person has paid tax under this chapter or chapter 82.08 RCW  
4 upon the full value of the article used, as defined in (a) of this  
5 subsection.

6 (d) In the case of articles manufactured or produced by the user  
7 and used in the manufacture or production of products sold or to be  
8 sold to the department of defense of the United States, the value of  
9 the articles used shall be determined according to the value of the  
10 ingredients of such articles.

11 (e) In the case of an article manufactured or produced for purposes  
12 of serving as a prototype for the development of a new or improved  
13 product, the value of the article used shall be determined by: (i) The  
14 retail selling price of such new or improved product when first offered  
15 for sale; or (ii) the value of materials incorporated into the  
16 prototype in cases in which the new or improved product is not offered  
17 for sale.

18 (f) In the case of an article purchased with a direct pay permit  
19 under RCW 82.32.087, the value of the article used shall be determined  
20 by the purchase price of such article if, but for the use of the direct  
21 pay permit, the transaction would have been subject to sales tax.

22 (g) In the case of a motor vehicle purchased within or without the  
23 state, the value of the article used shall be the purchase price,  
24 regardless of whether the purchase price represents the true value of  
25 the motor vehicle;

26 (3) "Value of the service used" means the purchase price for the  
27 service, the use of which is taxable under this chapter. If the  
28 service is received by gift or under conditions wherein the purchase  
29 price does not represent the true value thereof, the value of the  
30 service used shall be determined as nearly as possible according to the  
31 retail selling price at place of use of similar services of like  
32 quality and character under rules the department may prescribe;

33 (4) "Value of the extended warranty used" means the purchase price  
34 for the extended warranty, the use of which is taxable under this  
35 chapter. If the extended warranty is received by gift or under  
36 conditions wherein the purchase price does not represent the true value  
37 of the extended warranty, the value of the extended warranty used shall

1 be determined as nearly as possible according to the retail selling  
2 price at place of use of similar extended warranties of like quality  
3 and character under rules the department may prescribe;

4 (5) "Use," "used," "using," or "put to use" shall have their  
5 ordinary meaning, and shall mean:

6 (a) With respect to tangible personal property, the first act  
7 within this state by which the taxpayer takes or assumes dominion or  
8 control over the article of tangible personal property (as a consumer),  
9 and include installation, storage, withdrawal from storage,  
10 distribution, or any other act preparatory to subsequent actual use or  
11 consumption within this state;

12 (b) With respect to a service defined in RCW 82.04.050(2)(a), the  
13 first act within this state after the service has been performed by  
14 which the taxpayer takes or assumes dominion or control over the  
15 article of tangible personal property upon which the service was  
16 performed (as a consumer), and includes installation, storage,  
17 withdrawal from storage, distribution, or any other act preparatory to  
18 subsequent actual use or consumption of the article within this state;  
19 and

20 (c) With respect to an extended warranty, the first act within this  
21 state after the extended warranty has been acquired by which the  
22 taxpayer takes or assumes dominion or control over the article of  
23 tangible personal property to which the extended warranty applies, and  
24 includes installation, storage, withdrawal from storage, distribution,  
25 or any other act preparatory to subsequent actual use or consumption of  
26 the article within this state;

27 (6) "Taxpayer" and "purchaser" include all persons included within  
28 the meaning of the word "buyer" and the word "consumer" as defined in  
29 chapters 82.04 and 82.08 RCW;

30 (7) "Retailer" means every seller as defined in RCW 82.08.010 and  
31 every person engaged in the business of selling tangible personal  
32 property at retail and every person required to collect from purchasers  
33 the tax imposed under this chapter;

34 (8) "Extended warranty" has the same meaning as in RCW  
35 82.04.050(7);

36 (9) The meaning ascribed to words and phrases in chapters 82.04 and  
37 82.08 RCW, insofar as applicable, shall have full force and effect with  
38 respect to taxes imposed under the provisions of this chapter.

1 "Consumer," in addition to the meaning ascribed to it in chapters 82.04  
2 and 82.08 RCW insofar as applicable, shall also mean any person who  
3 distributes or displays, or causes to be distributed or displayed, any  
4 article of tangible personal property, except newspapers, the primary  
5 purpose of which is to promote the sale of products or services. With  
6 respect to property distributed to persons within this state by a  
7 consumer as defined in this subsection (9), the use of the property  
8 shall be deemed to be by such consumer.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW  
10 to read as follows:

11 The provisions of this chapter do not apply to the use of motor  
12 vehicles acquired by gift if the gift includes the entire value of the  
13 vehicle.

14 **Sec. 4.** RCW 82.12.045 and 2003 c 361 s 303 are each amended to  
15 read as follows:

16 (1) In the collection of the use tax on motor vehicles, the  
17 department of revenue may designate the county auditors of the several  
18 counties of the state as its collecting agents. Upon such designation,  
19 it shall be the duty of each county auditor to collect the tax at the  
20 time an applicant applies for the registration of, and transfer of  
21 title to, the motor vehicle, except in the following instances:

22 (a) Where the applicant exhibits a dealer's report of sale showing  
23 that the retail sales tax has been collected by the dealer;

24 (b) Where the application is for the renewal of registration;

25 (c) Where the applicant presents a written statement signed by the  
26 department of revenue, or its duly authorized agent showing that no use  
27 tax is legally due; or

28 (d) Where the applicant presents satisfactory evidence showing that  
29 the retail sales tax or the use tax has been paid by the applicant on  
30 the vehicle in question.

31 (2) The term "motor vehicle," as used in this section means and  
32 includes all motor vehicles, trailers and semitrailers used, or of a  
33 type designed primarily to be used, upon the public streets and  
34 highways, for the convenience or pleasure of the owner, or for the  
35 conveyance, for hire or otherwise, of persons or property, including

1 fixed loads, facilities for human habitation, and vehicles carrying  
2 exempt licenses.

3 (3) It shall be the duty of every applicant for registration and  
4 transfer of certificate of title who is subject to payment of tax under  
5 this section to declare upon the application the value of the vehicle  
6 for which application is made, which shall consist of the consideration  
7 paid or contracted to be paid therefor. The county auditor shall  
8 calculate the tax due based on the purchase price declared by the  
9 applicant for registration and transfer of certificate of title, under  
10 penalty of perjury, on a bill of sale form provided by the department  
11 of revenue. The department of revenue shall make the bill of sale form  
12 available electronically on its web site and at all department of  
13 licensing vehicle licensing offices, including each county auditor and  
14 appointed subagents of the director of licensing.

15 (4) Each county auditor who acts as agent of the department of  
16 revenue shall at the time of remitting license fee receipts on motor  
17 vehicles subject to the provisions of this section pay over and account  
18 to the state treasurer for all use tax revenue collected under this  
19 section, after first deducting as a collection fee the sum of two  
20 dollars for each motor vehicle upon which the tax has been collected.  
21 All revenue received by the state treasurer under this section shall be  
22 credited to the general fund. The auditor's collection fee shall be  
23 deposited in the county current expense fund. A duplicate of the  
24 county auditor's transmittal report to the state treasurer shall be  
25 forwarded forthwith to the department of revenue.

26 (5) Any applicant who has paid use tax to a county auditor under  
27 this section may apply to the department of revenue for refund thereof  
28 if he or she has reason to believe that such tax was not legally due  
29 and owing. No refund shall be allowed unless application therefor is  
30 received by the department of revenue within the statutory period for  
31 assessment of taxes, penalties, or interest prescribed by RCW  
32 82.32.050(3). Upon receipt of an application for refund the department  
33 of revenue shall consider the same and issue its order either granting  
34 or denying it and if refund is denied the taxpayer shall have the right  
35 of appeal as provided in RCW 82.32.170, 82.32.180 and 82.32.190.

36 (6) The provisions of this section shall be construed as cumulative  
37 of other methods prescribed in chapters 82.04 to 82.32 RCW, inclusive,  
38 for the collection of the tax imposed by this chapter. The department

1 of revenue shall have power to promulgate such rules as may be  
2 necessary to administer the provisions of this section. Any duties  
3 required by this section to be performed by the county auditor may be  
4 performed by the director of licensing but no collection fee shall be  
5 deductible by said director in remitting use tax revenue to the state  
6 treasurer.

7 (7) The use tax revenue collected on the rate provided in RCW  
8 82.08.020(3) shall be deposited in the multimodal transportation  
9 account under RCW 47.66.070.

10 NEW SECTION. **Sec. 5.** The department of licensing and the  
11 department of revenue are authorized to prescribe rules to implement  
12 sections 1 through 4 of this act. In prescribing rules, the  
13 departments of licensing and revenue shall use the kelley blue book  
14 value for determining the value of the vehicle when auditing bill of  
15 sale forms. The departments of licensing and revenue shall submit a  
16 report to the senate and house transportation committees by December 1,  
17 2006, detailing how rules created pursuant to this section are  
18 consistent with the legislative intent.

19 NEW SECTION. **Sec. 6.** This act may be known and cited as the  
20 vehicle purchaser's tax fairness act.

21 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2006.

--- END ---