
HOUSE BILL 2464

State of Washington

60th Legislature

2008 Regular Session

By Representatives Simpson, Orcutt, Sullivan, Hurst, Dunn, Ericks,
and Kristiansen

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on Finance.

1 AN ACT Relating to the excise taxation of bullion; amending RCW
2 82.04.062; and creating new sections.

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

4 NEW SECTION. **Sec. 1.** When the legislature enacted chapter 471,
5 Laws of 1985, it intended to tax the business of making sales of
6 precious metal bullion the same as sales of other investment products.
7 The business and occupation tax was to be imposed on commissions, not
8 on the value of the investment product traded. Other activities
9 involving precious metal bullion, including reforming precious metal
10 bullion into smaller units, were not taxable.

11 However, the method of calculating business and occupation tax for
12 taxpayers engaged in both manufacturing and selling activities changed
13 after chapter 471, Laws of 1985 was enacted. In the judgment of the
14 department of revenue, this change caused the reforming of precious
15 metal bullion into smaller units in this state to be taxable under the
16 manufacturing business and occupation tax classification. It is the
17 intent of this act to reimplement the original intention of the
18 legislature and limit the business and occupation tax imposed on the
19 business of making sales of precious metal bullion to a tax on amounts

1 received as commissions and not to tax the activity of reforming
2 precious metal bullion into different shapes or sizes. It is also the
3 intent of the legislature that the business and occupation tax apply to
4 the markup on the sale of precious metal bullion, where the taxpayer is
5 selling its own precious metal bullion.

6 **Sec. 2.** RCW 82.04.062 and 1985 c 471 s 5 are each amended to read
7 as follows:

8 (1) For purposes of this chapter, "wholesale sale," "sale at
9 wholesale," "retail sale," and "sale at retail" do not include the sale
10 of precious metal bullion or monetized bullion.

11 ~~(2) ((In computing tax under this chapter on the business of making
12 sales of precious metal bullion or monetized bullion, the tax shall be
13 imposed on the amounts received as commissions upon transactions for
14 the accounts of customers over and above the amount paid to other
15 dealers associated in such transactions, but no deduction or offset is
16 allowed on account of salaries or commissions paid to salesmen or other
17 employees.~~

18 (3)) The tax imposed by this chapter does not apply to the melting
19 and reforming of precious metal bullion into different units.

20 (3) The sale of precious metal bullion or monetized bullion is
21 taxable under RCW 82.04.290(2) on amounts received:

22 (a) Over and above the market price for the bullion sold on the
23 date that the order for the bullion is received, regardless of whether
24 this markup is referred to as a commission, premium, spread, or some
25 other term. A deduction is allowed from the measure of tax for amounts
26 derived from charges to the buyer for shipping, handling, and
27 insurance, but only to the extent that the deduction does not exceed
28 the seller's actual expenditures to third parties for delivery of, and
29 insurance for, the bullion sold; and

30 (b) As commissions upon transactions for the accounts of customers
31 over and above the amount paid to other dealers or mints associated in
32 such transactions. No deduction or offset is allowed on account of
33 salaries or commissions paid to salespersons or other employees.

34 (4) For purposes of this section, the following definitions apply:

35 (a) "Market price" means the seller's highest publicly stated price
36 during a particular date for which the seller is willing to buy
37 precious metal bullion or monetized bullion. If no such publicly

1 stated price is available, current market price means the closing price
2 for the bullion on the New York mercantile exchange. For purposes of
3 this subsection (4)(a), "seller" means a person taxable under
4 subsection (3)(a) of this section.

5 (b) "Monetized bullion" means coins or other forms of money
6 manufactured from gold, silver, or other metals and that have been or
7 are used as a medium of exchange under the laws of this state, the
8 United States, or any foreign nation. "Monetized bullion" does not
9 include coins or money sold to be manufactured into jewelry or works of
10 art.

11 (c) "Precious metal bullion" means any precious metal ((which))
12 that: (i) Has been put through a process of smelting or refining,
13 including, but not limited to, gold, silver, platinum group metals,
14 ((rhodium, and palladium,)) and rare earth metals; and ((which)) (ii)
15 is in such state or condition that its value depends upon its contents
16 and not upon its form. ((For purposes of this section, "monetized
17 bullion" means coins or other forms of money manufactured from gold,
18 silver, or other metals and heretofore, now, or hereafter used as a
19 medium of exchange under the laws of this state, the United States, or
20 any foreign nation, but does not include coins or money sold to be
21 manufactured into jewelry or works of art.))

22 NEW SECTION. Sec. 3. This act applies both retroactively and
23 prospectively.

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