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**HOUSE BILL 1990**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Fey, Sells, and Appleton

AN ACT Relating to use tax on vehicles transferred between immediate family members for no consideration other than to relieve the transferor of the underlying debt on the vehicle; amending RCW 82.12.020; adding a new section to chapter 82.12 RCW; and creating a new section.

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

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

(1) When an individual who is the registered owner of a motor vehicle transfers his or her interest in the motor vehicle to an immediate family member solely in consideration of the immediate family member furnishing a lump-sum payment to extinguish such owner's liability to the legal owner for the outstanding debt on the motor vehicle, the tax levied by RCW 82.12.020 is equal to the applicable rates in effect for the retail sales tax under RCW 82.08.020 multiplied by the lesser of:

(a) The amount of the lump-sum payment; or

(b) The value of the article used.

(2) The reduced measure of tax in subsection (1)(a) of this section only applies when:

(a) The legal owner of the motor vehicle has released its security interest in the motor vehicle upon satisfaction of the registered owner's outstanding debt on the motor vehicle;

(b) The immediate family member furnishes no consideration to the registered owner for the motor vehicle other than making the lump-sum payment to extinguish the registered owner's liability for the outstanding debt on the motor vehicle;

(c) The registered owner's interest in the motor vehicle is transferred to the immediate family member as evidenced on a registration certificate issued by the department of licensing within ninety days of the legal owner releasing its security interest in the motor vehicle;

(d) The tax imposed under chapter 82.08 RCW or this chapter was previously paid on the sale or use of the motor vehicle; and

(e) The immediate family member provides documentation establishing his or her eligibility for the tax treatment provided in subsection (1)(a) of this section as may be required by the department.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Immediate family member" means an individual's spouse or domestic partner; child, adopted child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual, and the spouse or the domestic partner of any such person; and a child, adopted child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner, and the spouse or the domestic partner of any such person. For purposes of this subsection, "domestic partner" has the same meaning as in RCW 26.26.011.

(b) "Legal owner" has the same meaning as in RCW 46.04.270.

(c) "Motor vehicle" has the same meaning as in RCW 46.04.320.

(d) "Registered owner" has the same meaning as in RCW 46.04.460.

**Sec.**  RCW 82.12.020 and 2010 1st sp.s. c 23 s 206 are each amended to read as follows:

(1) There is levied and collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any:

(a) Article of tangible personal property acquired by the user in any manner, including tangible personal property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as otherwise provided in this chapter, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state;

(b) Prewritten computer software, regardless of the method of delivery, but excluding prewritten computer software that is either provided free of charge or is provided for temporary use in viewing information, or both;

(c) Services defined as a retail sale in RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), excluding services defined as a retail sale in RCW 82.04.050(6)(b) that are provided free of charge;

(d) Extended warranty; or

(e)(i) Digital good, digital code, or digital automated service, including the use of any services provided by a seller exclusively in connection with digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(ii) With respect to the use of digital goods, digital automated services, and digital codes acquired by purchase, the tax imposed in this subsection (1)(e) applies in respect to:

(A) Sales in which the seller has granted the purchaser the right of permanent use;

(B) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(C) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(D) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(iii) With respect to digital goods, digital automated services, and digital codes acquired other than by purchase, the tax imposed in this subsection (1)(e) applies regardless of whether or not the consumer has a right of permanent use or is obligated to make continued payment as a condition of use.

(2) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property, extended warranty, digital good, digital code, digital automated service, or service taxable under RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), if the sale to, or the use by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(3)(a) Except as provided in this section, payment of the tax imposed by this chapter or chapter 82.08 RCW by one purchaser or user of tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service does not have the effect of exempting any other purchaser or user of the same property, extended warranty, digital good, digital code, digital automated service, or other service from the taxes imposed by such chapters.

(b) The tax imposed by this chapter does not apply:

(i) If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor;

(ii) In respect to the use of any article of tangible personal property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use;

(iii) In respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961; or

(iv) To the use of digital goods or digital automated services, which were obtained through the use of a digital code, if the sale of the digital code to, or the use of the digital code by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(4)(a) Except as provided in (b) of this subsection (4) and section 1 of this act, the tax is levied and must be collected in an amount equal to the value of the article used, value of the digital good or digital code used, value of the extended warranty used, or value of the service used by the taxpayer, multiplied by the applicable rates in effect for the retail sales tax under RCW 82.08.020.

(b) In the case of a seller required to collect use tax from the purchaser, the tax must be collected in an amount equal to the purchase price multiplied by the applicable rate in effect for the retail sales tax under RCW 82.08.020.

(5) For purposes of the tax imposed in this section, "person" includes anyone within the definition of "buyer," "purchaser," and "consumer" in RCW 82.08.010.

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preference contained in section 1 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to provide tax relief for certain individuals, as indicated in RCW 82.32.808(2)(e).

(2) It is the legislature's specific public policy objective to provide use tax relief to individuals that pay off a vehicle loan for an immediate family member solely in exchange for ownership of the vehicle.

(3) If a review finds that the tax preference provides relief or is capable of providing relief to individuals in these circumstances, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may request information from the department of licensing about the use of this tax preference.

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