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HOUSE BILL 2778

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State of Washington

64th Legislature

2016 Regular Session

By Representatives Fey, Orcutt, Clibborn, McBride, Moscoso, Hickel, Stambaugh, Bergquist, Tharinger, and Tarleton

Read first time 01/20/16. Referred to Committee on Transportation.

1 AN ACT Relating to retail sales and use tax exemption criteria  
2 for certain clean alternative fuel vehicles; amending RCW 82.08.809  
3 and 82.12.809; creating a new section; and providing an effective  
4 date.

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

6 NEW SECTION. **Sec. 1.** This section is the tax preference  
7 performance statement for the tax preferences contained in sections 2  
8 and 3 of this act. The performance statement is only intended to be  
9 used for subsequent evaluation of the tax preference. It is not  
10 intended to create a private right of action by any party or be used  
11 to determine eligibility for preferential tax treatment.

12 (1) The legislature categorizes the tax preference as one  
13 intended to induce certain designated behavior by taxpayers, as  
14 indicated in RCW 82.32.808(2)(a).

15 (2) It is the legislature's specific public policy objective to  
16 increase the use of clean alternative fuel vehicles in Washington. It  
17 is the legislature's intent to extend the existing sales and use tax  
18 exemption on certain clean alternative fuel vehicles in order to  
19 reduce the price charged to customers for clean alternative fuel  
20 vehicles.

1 (3) To measure the effectiveness of the tax preferences in  
2 sections 2 and 3 of this act in achieving the public policy  
3 objectives described in subsection (2) of this section, the joint  
4 legislative audit and review committee must evaluate the number of  
5 clean alternative fuel vehicles registered in the state.

6 (4) In order to obtain the data necessary to perform the review  
7 in subsection (3) of this section, the department of licensing must  
8 provide data needed for the joint legislative audit and review  
9 committee analysis. In addition to the data source described under  
10 this subsection, the joint legislative audit and review committee may  
11 use any other data it deems necessary.

12 **Sec. 2.** RCW 82.08.809 and 2015 3rd sp.s. c 44 s 408 are each  
13 amended to read as follows:

14 (1) Except as provided in subsection (4) of this section, the tax  
15 levied by RCW 82.08.020 does not apply to sales of new passenger  
16 cars, light duty trucks, and medium duty passenger vehicles, which  
17 (a) are exclusively powered by a clean alternative fuel or (b) use at  
18 least one method of propulsion that is capable of being reenergized  
19 by an external source of electricity and are capable of traveling at  
20 least thirty miles using only battery power.

21 (2) The seller must keep records necessary for the department to  
22 verify eligibility under this section.

23 (3) As used in this section, "clean alternative fuel" means  
24 natural gas, propane, hydrogen, or electricity, when used as a fuel  
25 in a motor vehicle that meets the California motor vehicle emission  
26 standards in Title 13 of the California code of regulations,  
27 effective January 1, 2005, and the rules of the Washington state  
28 department of ecology.

29 (4)(a) A sale, other than a lease, of a vehicle identified in  
30 subsection (1) of this section made on or after July 1, 2016, is not  
31 exempt from sales tax as described under subsection (1) of this  
32 section (~~(if the selling price of the vehicle plus trade-in property~~  
33 ~~of like kind exceeds thirty five thousand dollars.~~

34 ~~(b))~~ unless either of the following applies:

35 (i) The adjusted selling price of the vehicle is thirty-seven  
36 thousand dollars or less; or

37 (ii) The adjusted selling price of the vehicle is more than  
38 thirty-seven thousand dollars but no more than forty-two thousand  
39 five hundred dollars and either:

1 (A) The vehicle's rated battery energy capacity is thirty  
2 kilowatt-hours or more; or

3 (B) The vehicle's driving range on a full battery charge using  
4 only battery power is one hundred miles or more.

5 (b) For leased vehicles for which the lease agreement is signed  
6 on or after July 1, 2016, lease payments are not exempt from sales  
7 tax as described under subsection (1) of this section unless either  
8 of the following applies:

9 (i) The adjusted fair market value of the vehicle being leased is  
10 thirty-seven thousand dollars or less at the inception of the lease;  
11 or

12 (ii) The adjusted fair market value of the vehicle being leased  
13 is more than thirty-seven thousand dollars but no more than forty-two  
14 thousand five hundred dollars and either:

15 (A) The vehicle's rated battery energy capacity is thirty  
16 kilowatt-hours or more; or

17 (B) The vehicle's driving range on a full battery charge using  
18 only battery power is one hundred miles or more.

19 (c) For leased vehicles for which the lease agreement is signed  
20 on or after July 15, 2015, and before July 1, 2016, lease payments  
21 are not exempt from sales tax as described under subsection (1) of  
22 this section if the adjusted fair market value of the vehicle being  
23 leased exceeds thirty-five thousand dollars at the inception of the  
24 lease. ((For the purposes of this subsection (4)(b), "fair market  
25 value" has the same meaning as "value of the article used" in RCW  
26 82.12.010.

27 ~~(e))~~ (d) For leased vehicles for which the lease agreement was  
28 signed before July ((15)) 1, 2015, lease payments are exempt from  
29 sales tax as described under subsection (1) of this section  
30 regardless of the vehicle's adjusted fair market value at the  
31 inception of the lease.

32 (e) The adjusted selling prices and adjusted fair market value  
33 limits used to determine exemption eligibility in (a)(i), (a)(ii),  
34 (b)(i), and (b)(ii) of this subsection are raised by five hundred  
35 dollars on January 1st of each calendar year, beginning January 1,  
36 2017.

37 (5) On the last day of January, April, July, and October of each  
38 year, the state treasurer, based upon information provided by the  
39 department, must transfer from the multimodal transportation account  
40 to the general fund a sum equal to the dollar amount that would

1 otherwise have been deposited into the general fund during the prior  
2 calendar quarter but for the exemption provided in this section.  
3 Information provided by the department to the state treasurer must be  
4 based on the best available data, except that the department may  
5 provide estimates of taxes exempted under this section until such  
6 time as retailers are able to report such exempted amounts on their  
7 tax returns. For purposes of this section, the first transfer for the  
8 calendar quarter after July 15, 2015, must be calculated assuming  
9 only those revenues that should have been deposited into the general  
10 fund beginning July 1, 2015.

11 (6) Lease payments due on or after July 1, 2019, are subject to  
12 the taxes imposed under this chapter.

13 (7) For the purposes of this section:

14 (a) "Adjusted fair market value" has the same meaning as "value  
15 of the article used" as defined in RCW 82.12.010 plus the value of  
16 any trade-in property of like kind.

17 (b) "Adjusted selling price" has the same meaning as "selling  
18 price" as defined in RCW 82.08.010 plus the value of any trade-in  
19 property of like kind.

20 (8) This section expires July 1, 2019.

21 **Sec. 3.** RCW 82.12.809 and 2015 3rd sp.s. c 44 s 409 are each  
22 amended to read as follows:

23 (1) Except as provided in subsection (4) of this section, until  
24 July 1, 2019, the provisions of this chapter do not apply in respect  
25 to the use of new passenger cars, light duty trucks, and medium duty  
26 passenger vehicles, which (a) are exclusively powered by a clean  
27 alternative fuel or (b) use at least one method of propulsion that is  
28 capable of being reenergized by an external source of electricity and  
29 are capable of traveling at least thirty miles using only battery  
30 power.

31 (2) The definitions in RCW 82.08.809 apply to this section.

32 (3) A taxpayer is not liable for the tax imposed in RCW 82.12.020  
33 on the use, on or after July 1, 2019, of a passenger car, light duty  
34 truck, or medium duty passenger vehicle that is exclusively powered  
35 by a clean alternative fuel or uses at least one method of propulsion  
36 that is capable of being reenergized by an external source of  
37 electricity and is capable of traveling at least thirty miles using  
38 only battery power, if the taxpayer used such vehicle in this state

1 before July 1, 2019, and the use was exempt under this section from  
2 the tax imposed in RCW 82.12.020.

3 (4)(a) For vehicles identified in subsection (1) of this section  
4 purchased on or after July 1, 2016, or for leased vehicles identified  
5 in subsection (1) of this section for which the lease agreement was  
6 signed on or after July 1, 2016, a vehicle is not exempt from use tax  
7 as described under subsection (1) of this section unless either of  
8 the following applies:

9 (i) The adjusted fair market value of the vehicle is thirty-seven  
10 thousand dollars or less at the time the tax is imposed for purchased  
11 vehicles or at the inception of the lease for leased vehicles; or

12 (ii) The adjusted fair market value of the vehicle is more than  
13 thirty-seven thousand dollars but no more than forty-two thousand  
14 five hundred dollars at the time the tax is imposed for purchased  
15 vehicles or at the inception of the lease for leased vehicles and  
16 either:

17 (A) The vehicle's rated battery energy capacity is thirty  
18 kilowatt-hours or more; or

19 (B) The vehicle's driving range on a full battery charge using  
20 only battery power is one hundred miles or more.

21 (b) For vehicles purchased on or after July 15, 2015, and before  
22 July 1, 2016, or for leased vehicles for which the lease agreement  
23 was signed on or after July 15, 2015, and before July 1, 2016, a  
24 vehicle is not exempt from use tax as described under subsection (1)  
25 of this section if the adjusted fair market value of the vehicle  
26 exceeds thirty-five thousand dollars at the time the tax is imposed  
27 for purchased vehicles, or at the inception of the lease for leased  
28 vehicles.

29 ~~((b))~~ (c) For leased vehicles for which the lease agreement was  
30 signed before July ~~((15))~~ 1, 2015, lease payments are exempt from use  
31 tax as described under subsection (1) of this section regardless of  
32 the vehicle's adjusted fair market value at the inception of the  
33 lease.

34 (d) The adjusted fair market value limits used to determine  
35 exemption eligibility in (a)(i) and (ii) of this subsection are  
36 raised by five hundred dollars on January 1st of each calendar year,  
37 beginning January 1, 2017.

38 (5) On the last day of January, April, July, and October of each  
39 year, the state treasurer, based upon information provided by the  
40 department, must transfer from the multimodal transportation account

1 to the general fund a sum equal to the dollar amount that would  
2 otherwise have been deposited into the general fund during the prior  
3 calendar quarter but for the exemption provided in this section.  
4 Information provided by the department to the state treasurer must be  
5 based on the best available data. For purposes of this section, the  
6 first transfer for the calendar quarter after July 15, 2015, must be  
7 calculated assuming only those revenues that should have been  
8 deposited into the general fund beginning July 1, 2015.

9 (6) Lease payments due on or after July 1, 2019, are subject to  
10 the taxes imposed under this chapter.

11 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2016.

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