

**Property Tax Advisories are interpretive statements authorized by RCW 34.05.230.**

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## SALES TAX AS AN ELEMENT OF VALUE

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The Washington State Board of Tax Appeals (Board) ruled in Hoppe v. Boeing Equip. Holding Co., Docket Nos. 9977-9979, that "retail sales tax is not considered to be part of market value of tangible personal property for ad valorem tax purposes." The Board noted that "[t]he amount of sales tax is not known until after the selling price has been determined. The tax as such is not a 'value' agreed upon by the 'willing buyer and willing seller'. [sic]" The Board also noted that retail sales tax is not imposed upon the sale of real property, but it is imposed upon the construction of improvements. Therefore, sales tax is incorporated into the permanent value of the real property and is reflected in the selling price when real property is sold.

The Department of Revenue concurs with the Board's decision. Sales tax is not part of the "purchase price" and thus not part of the "market value." However, it must be pointed out that this applies to personal property only. In fact, the Board's decision implies that sales tax is a part of the value of real property. Consequently, the assessor should make sure that plant machinery, equipment, and other fixtures that would properly be classified as real property are listed and assessed on the real property tax rolls.

"Real property" is defined under RCW 84.04.090 as "the land itself . . . and all buildings, structures or improvements or other fixtures of whatsoever kind thereon . . . ."

WAC 458-12-010 further clarifies the definition of "real property" by including as real property all machinery, equipment, or other fixtures permanently affixed to land or to a building, structure, or improvement on land. Items are considered as affixed when they are owned by the owner of the real property and are securely attached to the real property. Items are not considered to be affixed to real property when they are owned separately from the real property unless an agreement specifically provides that such items are to be considered as part of the real property and are to be left with the real property when the occupant vacates the premises. Items that are not attached can also be considered as affixed when they are permanently situated in one location and are adapted to use in the place they are located, e.g., a heavy piece of machinery or equipment set upon, but not bolted to, a foundation.

Whenever there is a question as to whether an item is real property or not, RCW 84.04.080 and 84.04.090 as well as WAC 458-12-005 and 458-12-010 should be consulted. Other sources are the decisions of the appellate courts of this state cited in 18 Wash. Digest 2d, Fixtures §§ 1-35.

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In the valuation of real property, sales tax is not an element of value for any machinery and equipment that qualifies for the Manufacturing Machinery and Equipment Sales and Use Tax Exemption provided by RCW 82.08.02565 and 82.12.02565. This is true even for machinery and equipment purchased before the exemption went into effect. If the property would qualify for the exemption if purchased on the assessment date, sales tax is not an element of value for the assessment year and should be deducted if it was paid originally. This information is relevant only to machinery and equipment that constitutes a fixture (i.e., real property), since sales tax is never an element of value for personal property. Please refer to RCW 82.08.02565 and 82.12.02565 and WAC 458-20-13601 to determine what property qualifies for the exemption.

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