



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)
Do NOT use for expedited rule making

Agency: Department of Revenue

- Preproposal Statement of Inquiry was filed as WSR 14-09-084; or
- Expedited Rule Making--Proposed notice was filed as WSR ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

Title of rule and other identifying information: WAC 458-20-17802 *Collection of use tax by county auditors and department of licensing – Measure of Tax.*

Hearing location(s):

Capitol Plaza Building
4th Floor Exec Conference Room
1025 Union Avenue SE
Olympia, Washington

Copies of draft rules are available for viewing and printing on our website at [Rules Agenda](#)

Call in option can be provided upon request no later than 3 days before the hearing date.

Date: September 24, 2014 Time: 10:00 AM

Date of intended adoption: October 1, 2014
(Note: This is NOT the effective date)

Submit written comments to:

Name: Gayle Carlson
Department of Revenue
Address: Post Office Box 47453
Olympia, Washington 98504-7453

E-mail: GayleC@dor.wa.gov

By: September 24, 2014

Assistance for persons with disabilities: Contact Mary Carol LaPalm (360) 725-7499 or Renee Cosare (360) 725-7514 no later than 10 days before the hearing date. For Hearing Impaired please contact us via the Washington Relay Operator at (800) 833-6384.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The Department of Revenue has authorized county auditors and the Department of Licensing to collect the use tax when a person applies to transfer a certificate of title of a vehicle under the authority of RCW 82.12.045. The Department of Licensing provides an automated system to help in the determination of the measure of use tax due at the time of transfer. Currently if the vehicle's average retail value, as provided by the system, is less than \$3,000 the purchase price is presumed to represent the vehicle's true value. The Department of Revenue is proposing to revise this rule for general updating and to raise the \$3,000 threshold to \$5,000.

Reasons supporting proposal:

Statutory authority for adoption: RCW 82.32.300, 82.01.060(2), and 82.12.045.

Statute being implemented:

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE August 20, 2014

NAME Dylan Waits

SIGNATURE

TITLE Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 20, 2014

TIME: 10:27 AM

WSR 14-17-131

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: Department of Revenue

Private

Public

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Gayle Carlson	1025 Union Ave. SE. Ste #544, Olympia ,WA	(360) 534-1576
Implementation....	Dylan Waits	1025 Union Ave. SE. Ste #544, Olympia ,WA	(360) 534-1583
Enforcement.....	Alan Lynn	1025 Union Ave. SE. Ste #544, Olympia ,WA	(360) 534-1599

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

No. Explain why no statement was prepared.

This rule does not impose any new performance requirements of administrative burden on any small business not required by statute.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

No: Please explain:

The proposed rule is not a significant legislation rule as defined by RCW 34.05.328.

AMENDATORY SECTION (Amending WSR 01-22-008, filed 10/26/01, effective 11/26/01)

WAC 458-20-17802 Collection of use tax by county auditors and department of licensing—Measure of tax. (1) **Introduction.** The department of revenue (~~department~~) has authorized county auditors and the department of licensing to collect the use tax imposed by chapter 82.12 RCW when a person applies to transfer the certificate of (~~ownership~~) title of a (~~motor~~) vehicle acquired without the payment of sales tax. See RCW 82.12.045. This rule explains how county auditors, their subagents, and the department of licensing determine the measure of the use tax. This rule does not relieve a seller registered with the department (~~of revenue~~) of the statutory requirement to collect sales tax when selling tangible personal property, including (~~motor~~) vehicles. RCW 82.08.020 and 82.08.0251. The use tax reporting responsibilities of Washington residents in other situations and the general nature of the use tax are addressed in WAC 458-20-178 (Use tax). (~~The various use tax exemptions provided by chapter 82.12 RCW are discussed in WAC 458-20-17801 (Use tax exemptions).~~) The application of tax to vehicles acquired by Indians and Indian tribes is discussed in WAC 458-20-192 (Indians—Indian country).

Vehicle licensing locations and information about vehicle titles and registration are available from the department of licensing on (~~the internet~~) their web site at: (~~http://www.wa.gov/dol/, under "vehicles list."~~) dol.wa.gov. This information is also available by contacting the local county auditor's office listed in the government pages of (~~the~~) a telephone directory.

(2) **What is use tax based on?** For purposes of computing the amount of use tax due, the value of the article used is the measure of tax. The value of the article used is generally the purchase price. If the purchase price does not represent the true value of the article used, the value must be determined as nearly as possible according to the retail selling price at place of use of similar vehicles of like quality and character. RCW 82.12.010.

(3) **Use of automated system to verify measure of tax.** When a person applies to transfer the certificate of (~~ownership~~) title of a (~~motor~~) vehicle, county auditors, their subagents, or the department of licensing must verify that the purchase price represents the true value. In doing so, county auditors, their subagents, or the department of licensing compare the vehicle's purchase price to the average retail value of comparable vehicles using an automated valuing system. The automated valuing system identifies the average retail value using a data base that is provided by a regional industry standard source specializing in providing valuation services to local, state, and federal governments, and the private sector.

In limited situations, the automated valuing system's data base may not provide the average retail value for a (~~motor~~) vehicle. For example, the automated valuing system's data base does not provide average retail value information for collectible vehicles or vehicles that are over twenty years of age. In the absence of an average retail value, county auditors, their subagents, or the department of licensing will determine the true value as nearly as possible according to the retail selling price at place of use of similar vehicles of like character and quality. To assist in this process, the department of revenue and the department of licensing may approve the use of alternative valuing authorities as necessary.

(4) **What happens when the purchase price is presumed to represent the true value?** County auditors, their subagents, or the department of licensing will use the purchase price to compute the amount of use tax due when the purchase price represents the vehicle's true value. County auditors, their subagents, or department of licensing will presume the purchase price represents the vehicle's true value if one of the following conditions is met:

(a) The vehicle's average retail value, as provided by the automated valuing system, is less than ~~((\$3,000))~~ \$5,000.

For example, a person buys a ~~((motor))~~ vehicle for ~~((\$800))~~ \$2,800. The automated valuing system indicates that the vehicle's average retail value is ~~((\$2,900))~~ \$4,900. The purchase price is presumed to represent the vehicle's true value because the average retail value is less than ~~((\$3,000))~~ \$5,000.

(b) The vehicle's purchase price is not more than \$2,000 below the average retail value as provided by the automated valuing system.

For example, a person buys a used ~~((motor))~~ vehicle for ~~((\$4,500))~~ \$10,000. The automated valuing system indicates the vehicle's average retail value is ~~((\$6,000))~~ \$11,500. When compared to the average retail value, the purchase price is not more than \$2,000 below the average retail value. Consequently, the purchase price is presumed to represent the vehicle's true value.

(5) **What happens when the purchase price is not presumed to represent the true value?** If the vehicle's purchase price is not presumed to be the true value as explained in subsection (4) of this rule, a person may remit use tax based on the average retail value as indicated by the automated valuing system or substantiate the true value of the vehicle using any one of the following methods.

(a) **Industry-accepted pricing guide.** A person applying to transfer a certificate of ~~((ownership))~~ title may provide the county auditor, a subagent, or the department of licensing with documentation from one of the various industry-accepted pricing guides. The value from the industry-accepted pricing guide must represent the retail value of a similarly equipped vehicle of the same make, model, and year in a comparable condition. The purchase price is presumed to represent the vehicle's true value if the purchase price is not more than \$2,000 below the retail value.

For example, a person buys a vehicle for \$3,500. The automated valuing system indicates that the vehicle's average retail value is \$5,700. An industry-accepted pricing guide shows that the retail value of a similarly-equipped vehicle in a comparable condition of the same make, model, and year is \$5,000. When compared to the retail value established by the industry-accepted pricing guide, the purchase price is not more than \$2,000 below the retail value. Consequently, the purchase price is presumed to represent the vehicle's true value.

(b) **Declaration of buyer and seller.** A person applying to transfer a certificate of ~~((ownership))~~ title may provide to the county auditor, a subagent, or the department of licensing a Declaration of Buyer and Seller Regarding Value of Used Vehicle Sale (REV 32 2501) to substantiate that the purchase price is the true value of the vehicle. The declaration must be signed by both the buyer and the seller and must certify to the purchase price and the vehicle's condition under penalty of perjury. The department ~~((of revenue))~~ may review a declaration and assess additional tax, interest, and penalties. A person may appeal an assessment to the department ~~((of revenue))~~ as provided in WAC 458-20-100 (Appeals~~((, small claims and settlements))~~)).

The declaration is available ~~((from))~~ on the ~~((department of revenue on the internet at <http://dor.wa.gov/> under "other forms and schedules."))~~ department's web site at dor.wa.gov. It is also available at all vehicle licensing locations, ~~((department of revenue))~~ department's field offices, or by writing:

Department of Revenue
Taxpayer Services
P.O. Box 47478
Olympia, WA 98504-7478

(c) **Written appraisal.** A person applying to transfer a certificate of ~~((ownership))~~ title may present to the county auditor, a subagent, or the department of licensing a written appraisal from an automobile dealer, insurance or other vehicle appraiser to substantiate the true value of the vehicle. If an automobile dealer performs the appraisal, the dealer must be currently licensed with the department of licensing's dealer services division or be a licensed vehicle dealer in another jurisdiction.

The written appraisal must appear on company stationery or have the business card attached and include the vehicle description, including the vehicle make, model, and identification number (VIN). The person performing the appraisal must certify that the stated value represents the retail selling price of a ~~((similarly equipped))~~ similarly equipped vehicle of the same make, model, and year in a comparable condition. The department ~~((of revenue))~~ may review an appraisal and assess additional tax, interest, and penalties. A person may appeal an assessment to the department ~~((of revenue))~~ as provided in WAC 458-20-100 (Appeals~~((, small claims and settlements))~~)).

(d) **Declaration of use tax.** A person applying to transfer a certificate of ~~((ownership))~~ title may present to the county auditor, a subagent, or the department of licensing a Declaration of Use Tax (REV 32 2486e) to substantiate the true value of the vehicle. An authorized employee of the department ~~((of revenue))~~ must complete the declaration. Determining the true value may require a visual inspection that is not available at all department ~~((of revenue))~~ locations.

(e) **Repair estimate.** A person applying to transfer a certificate of ~~((ownership))~~ title may present to the county auditor, a subagent, or the department of licensing a written repair estimate, prepared by an auto repair or auto body repair business. This estimate will then be used to assist with determining the true value of the vehicle. The written estimate must appear on company stationery or have the business card attached. In addition, the written estimate must include the vehicle description, including the vehicle make, model, and identification number (VIN), and an itemized list of repairs. The department ~~((of revenue))~~ may review an appraisal and assess additional tax, interest, and penalties. A person may appeal an assessment to the department ~~((of revenue))~~ as provided in WAC 458-20-100 (Appeals~~((, small claims and settlements))~~)).

The purchase price is presumed to represent the true value if the total of the purchase price and the repair estimate is not more than \$2,000 below the average retail value. For example, a person purchases a vehicle with extensive bumper damage for \$1,700. The automated valuing system indicates that the vehicle's average retail value is \$6,000. An estimate from an auto body repair business indicates a cost of \$2,500 to repair the bumper damage. The purchase price is presumed to represent the vehicle's true value because when the total of the purchase price and the repair estimate ($\$1,700 + \$2,500 = \$4,200$) is

compared to the average retail value, the total is not more than \$2,000 below the average retail value (\$6,000).

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