



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Revenue

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) January 12, 2015

(If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

WAC 458-20-17802 (Rule 17802) *Collection of use tax by county auditors and department of licensing – Measure of tax.*

The Department of Revenue authorizes 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. This rule explains how county auditors, their subagents, and the Department of Licensing determine the measure of the use tax.

The Department of Licensing has an automated system that provides a vehicle's average retail value to help determine the measure of use tax due at the time of transfer. Previously if the vehicle's average retail value, as provided by the system, was less than \$3,000 the purchase price was presumed to represent the vehicle's true value. The rule has been revised to raise the threshold of \$3,000 to \$5,000. Other general updating has also been completed.

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 458-20-17802 *Collection of use tax by county auditors and department of licensing – Measure of tax.*

Suspended:

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

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-17-131 on August 20, 2014.

Describe any changes other than editing from proposed to adopted version: None.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **An analysis was not prepared.**

Date adopted:

October 15, 2014

NAME

Dylan Waits

SIGNATURE

TITLE

Rules Coordinator

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 15, 2014

TIME: 1:17 PM

WSR 14-21-104

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	Amended	Repealed
Federal rules or standards:	New	Amended	Repealed
Recently enacted state statutes:	New	Amended	Repealed

The number of sections adopted at the request of a nongovernmental entity:

New	Amended	Repealed
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The number of sections adopted in the agency's own initiative:

New	Amended	1	Repealed
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	Amended	Repealed
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The number of sections adopted using:

Negotiated rule making:	New	Amended	Repealed	
Pilot rule making:	New	Amended	Repealed	
Other alternative rule making:	New	Amended	1	Repealed

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

This rule was adopted on October 15, 2014 and becomes effective January 12, 2015. It may be used to determine tax liability on and after the effective date, until the codified version is available from the code reviser's office.

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