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AMENDATORY SECTION (Amending WSR 90-10-080, filed 5/2/90, effective 6/2/90)

WAC 458-20-107 (~~Selling price~~) Requirement to separately state sales tax--Advertised prices including sales tax. (1) (~~Selling price~~) **Introduction.** Under the provisions of RCW 82.08.020 the retail sales tax is to be collected and paid upon retail sales, measured by the (~~the~~) selling price. (~~the~~)

~~((a) The term "Selling price" means the consideration, whether money, credits, rights, or other property except trade-in property of like kind, expressed in the terms of money paid or delivered by a buyer to a seller without any deduction on account of the cost of tangible personal property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes other than taxes imposed under this chapter if the seller advertises the price as including the tax or that the seller is paying the tax, or any other expenses whatsoever paid or accrued and without any deduction on account of losses; . . ."~~ (See RCW 82.08.010(1).)

~~(b) Concerning the tax liabilities and benefits in connection with "trade in" transactions, see WAC 458-20-247.~~

~~(c))~~ (2) **Retail sales tax separately stated.** RCW 82.08.050 specifically requires that the retail sales tax must be stated separately from the selling price on any sales invoice or other instrument of sale, i.e., contracts, sales slips, and/or customer billing receipts. (For an exception covering restaurant receipts of Class H liquor licensees, see WAC (~~458-20-119~~) 458-20-124.) This is required even though the seller and buyer may know and agree that the price quoted is to include state and local taxes, including the retail sales tax.

(a) The law creates a "conclusive presumption" that, for purposes of collecting the tax and remitting it to the state, the selling price quoted does not include the retail sales tax. This presumption is not overcome or rebutted by any written or oral agreement between seller and buyer.

~~((However,))~~ (b) Selling prices may be advertised as including the tax or that the seller is paying the tax and, in such cases, the advertised price (~~shall~~) must not be considered to be the taxable selling price under certain prescribed conditions explained in this section. Even when prices are advertised as including the sales tax, the actual

sales invoices, receipts, contracts, or billing documents must list the retail sales tax as a separate charge. Failure to comply with this requirement may result in the retail sales tax due and payable to the state being computed on the gross amount charged even if it is claimed to already include all taxes due.

~~((2))~~ **(3) Advertising prices including tax.**

(a) The law provides that a seller may advertise prices as including the sales tax or that the seller is paying the sales tax under the following conditions:

(i) The words "tax included" are stated immediately following the advertised price in print size at least half as large as the advertised price print size, unless the advertised price is one in a listed series;

(ii) When advertised prices are listed in series, the words "tax included in all prices" are placed conspicuously at the head of the list in the same print size as the list;

(iii) If the price is advertised as including tax, the price listed on any price tag (~~shall~~) must be shown in the same way; and

(iv) All advertised prices and the words "tax included" are stated in the same medium, whether oral or visual, and if oral, in substantially the same inflection and volume.

(b) If these conditions are satisfied, as applicable, then price lists, reader boards, menus, and other price information mediums need not reflect the item price and separately show the actual amount of sales tax being collected on any or all items.

(c) The scope and intent of the foregoing is that buyers have the right to know whether retail sales tax is being included in advertised prices or not and that the tax is not to be used for the competitive advantage or disadvantage of retail sellers.

~~((3) See: WAC 458-20-257 for warranties (guarantees) and maintenance agreements (service contracts).))~~

[Statutory Authority: RCW 82.32.300. 90-10-080, § 458-20-107, filed 5/2/90, effective 6/2/90; 86-03-016 (Order ET 86-1), § 458-20-107, filed 1/7/86; 83-07-034 (Order ET 83-17), § 458-20-107, filed 3/15/83; Order ET 70-3, § 458-20-107 (Rule 107), filed 5/29/70, effective 7/1/70.]