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AMENDATORY SECTION (Amending WSR 00-11-097, filed 5/17/00, effective 6/17/00)

WAC 458-20-261 ~~((Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting. (1) Introduction. This section explains the various tax credits and exemptions which apply in connection with ride sharing, public transportation, and nonmotorized commuting.~~

~~—(2) Definitions. For purposes of this section, the following definitions apply, unless otherwise required by the context.~~

~~—(a) "Ride sharing" and "commuter ride sharing" mean a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (i) not fewer than five persons including the drivers, or (ii) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment. The transportation must be between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution. The terms include ride sharing on Washington state ferries.~~

~~—(b) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty eight feet long. The driver need not be a person with special transportation needs.~~

~~—(c) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.~~

~~—(d) "Public transportation" means the transportation of passengers by means other than chartered or sightseeing bus, together with necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. It includes passenger services of the Washington state ferries.~~

~~—(e) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor. It does not include teleworking.~~

~~—(3) **Business and occupation tax and public utility tax exemptions.** Amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047.~~

~~—(4) **Retail sales tax exemption.** RCW 82.08.0287 provides a retail sales tax exemption for sales of passenger motor vehicles as ride sharing vehicles.~~

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~~—(a) Sales tax does not apply to sales of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty six consecutive months beginning within thirty days of application for exemption from sales tax. If the vehicle is used as a ride-sharing vehicle for less than thirty six consecutive months, the registered owner must notify the department of revenue and pay the tax.~~

~~—(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:~~

~~—(i) The vehicle must be operated by a public transportation agency for the general public;~~

~~—(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or~~

~~—(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.~~

~~—(5) **Use tax exemption.** RCW 82.12.0282 provides a use tax exemption for the use of passenger motor vehicles as ride-sharing vehicles.~~

~~—(a) Use tax does not apply to the use of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty six consecutive months beginning within thirty days of application for exemption from use tax. If the vehicle is used as a ride-sharing vehicle for less than thirty six consecutive months, the registered owner must notify the department of revenue and pay the tax.~~

~~—(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:~~

~~—(i) The vehicle must be operated by a public transportation agency for the general public;~~

~~—(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or~~

~~—(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.~~

~~—(6) **Business and occupation tax and public utility tax credit.** The credit program described in this subsection expires December 31, 2000. Employers in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. Property managers who manage worksites in Washington are allowed a credit against their business and occupation tax and public utility tax~~

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~~liability for amounts paid to or on behalf of persons employed at those worksites for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. RCW 82.04.4453 and 82.16.048. Property managers became eligible for these credits on July 25, 1999. Chapter 402, Laws of 1999.~~

~~—(a) In general, the amount of the credit for employers is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. For property managers, the amount of the credit, in most cases, is equal to the amount paid to or on behalf of each person employed at the worksite, but may not exceed sixty dollars per employee per year. However, for ride sharing in vehicles carrying two persons, the credit for both employers and property managers is equal to the amount paid to or on behalf of each employee multiplied by thirty percent, but may not exceed sixty dollars per employee per year. The credit is based upon amounts paid to or on behalf of individual employees, and may not be based upon an average of amounts paid to or on behalf of employees for qualifying purposes.~~

~~—(b) The credit may not exceed the amount of business and occupation tax or public utility tax that would otherwise be due for the same calendar year after all other credits are applied.~~

~~—(c) A person may not receive credit for amounts paid to or on behalf of the same employee under both the business and occupation tax and the public utility tax.~~

~~—(d) A person may not take a credit for amounts claimed for credit by other persons.~~

~~—(e) The total credit received by a person against both the business and occupation tax and the public utility tax may not exceed one hundred thousand dollars for a calendar year.~~

~~—(f) The total credit granted to all persons under both the business and occupation tax and the public utility tax may not exceed two million two hundred fifty thousand dollars for a calendar year. The total credit granted may be limited to less than two million two hundred fifty thousand dollars for any particular calendar year, depending on the availability of funding.~~

~~—(g) No credit or portion of a credit denied because of exceeding the limitations in (e) or (f) of this subsection may be used against tax liability for other calendar years.~~

~~—(7) **Credit procedures.** This subsection explains the procedures used in the credit program described in subsection (6) of this rule.~~

~~—(a) Persons apply for the credit by completing a ride share credit reporting schedule and filing it with the combined excise tax return covering the period for which the credit is claimed. The ride share credit reporting schedule is available upon request from the department of revenue.~~

~~—(b) Persons may not apply for the credit more frequently than once per quarter nor less frequently than once per year against taxes due for the same calendar year in which the amounts for which credit is claimed were paid to or on behalf of employees.~~

~~—(c) Credit must be claimed by the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.~~

~~—(i) Credit not previously claimed may not be claimed for the first time on supplemental or amended tax returns filed after the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.~~

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—(ii) If the department of revenue has granted an extension of the due date for the last tax return for the calendar year in which the payment to or on behalf of employees was made, the credit must be claimed by the extended due date.

—(d) The department of revenue tabulates the amount of credit taken by all persons on a quarterly basis. If the annual allowable amount of credit is exceeded in a given quarter, no further credit will be allowed in succeeding quarters in the same calendar year. For the quarter in which the maximum is exceeded, the department of revenue calculates the amount of credit available at the beginning of the quarter and determines the proportional share of that amount for every person who has claimed a credit in the quarter. These persons are billed for the difference between the amount of credit they claimed and the prorated amount of credit for which they are eligible.

—(8) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

—(a) An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. This is the total expenditure during a calendar year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, and using nonmotorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

—(b) An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

—(c) As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit, if it does not cause the sixty dollar limitation to be exceeded, because it is an amount paid on behalf of a specific employee.

—(d) An employer pays the property manager for a yearly bus pass for one employee who works at the worksite managed by the property manager. The property manager in turn pays the amount received from the employer to a public transportation agency to purchase the bus pass. Either the employer or the property manager, but not both, may take the credit for this expenditure.))

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Commute trip reduction incentives. (1) Introduction. This rule explains the various commute trip reduction incentives that are available. First, RCW 82.04.355 and 82.16.047 provide exemptions from business and occupation (B&O) tax and public utility tax on amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs. RCW 82.08.0287 and 82.12.0282 provide sales and use tax exemptions for sales or use of passenger motor vehicles as ride-sharing vehicles. Finally, chapter 82.70 RCW provides commute trip reduction incentives in the form of B&O tax or public utility tax credit, effective July 1, 2003, in connection with ride sharing, public transportation, car sharing, and non-motorized commuting.

(2) B&O tax and public utility tax exemptions on providing commuter ride sharing or ride sharing for persons with special transportation needs. Amounts received in the course of commuter ride sharing or ride sharing for persons with special transportation needs are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047.

(a) What is "commuter ride sharing"? "Commuter ride sharing" means a car pool or van pool arrangement, whereby one or more fixed groups

(i) Not exceeding fifteen persons each, including the drivers, and

(ii) Either

(A) Not fewer than five persons, including the drivers, or

(B) Not fewer than four persons, including the drivers, where at least two of those persons are confined to wheelchairs when riding,

are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding any special rider equipment. The transportation must be between their places of residence or near such places of residence, and their places of employment or educational or other institutions. Each group must be in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institutions.

(b) What is "ride sharing for persons with special transportation needs"? "Ride sharing for persons with special transportation needs" means an arrangement, whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs.

(i) What is a "private, nonprofit transportation provider"? A "private, nonprofit transportation provider" is any private, nonprofit corporation providing transportation services for compensation solely to persons with special transportation needs.

(ii) What is "persons with special transportation needs"? "Persons with special transportation needs" are those persons, including their personal attendants, who because of physical or mental disability, income status, or age, are unable to transport themselves or to

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purchase appropriate transportation.

(3) Retail sales tax and use tax exemptions on sales or use of passenger motor vehicles as ride-sharing vehicles. RCW 82.08.0287 and 82.12.0282 provide retail sales tax and use tax exemptions for sales and use of passenger motor vehicles as ride-sharing vehicles.

(a) What are the requirements? The requirements are:

(i) Passenger motor vehicles must be used for commuter ride sharing or ride sharing for persons with special transportation needs, and

(ii) Passenger motor vehicles must be used as ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase and the date of first use. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the retail sales tax or use tax.

(b) Additional requirements in certain cases. Vehicles with five or six passengers, including the driver, used for commuter ride sharing must be operated within a county, or a city or town within that county, which has a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of retail sales tax or use tax. In addition, for the exemptions to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

Individual-employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commute ride sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

(4) B&O tax or public utility tax credit for ride sharing, public transportation, car sharing, or non-motorized commuting. Effective July 1, 2003, RCW 82.70.020 provides a credit against B&O tax or public utility tax liability for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using non-motorized commuting.

(a) Who is eligible for this credit?

(i) Employers in Washington are eligible for this credit, for amounts paid to or on behalf of their own or other employees, as financial incentives to such employees for ride sharing, for using public transportation, for using car sharing, or for using non-motorized commuting.

(ii) Property managers who manage worksites in Washington are eligible for this credit, for amounts paid to or on behalf of persons employed at those worksites, as financial incentives to such persons for ride sharing, for using public transportation, for using car sharing, or for using

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non-motorized commuting.

(b) What is "ride sharing"? "Ride sharing" means a car pool or van pool arrangement, whereby a group of at least two but not exceeding fifteen persons, including the driver, is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding any special rider equipment. The transportation must be between their places of residence or near such places of residence, and their places of employment or educational or other institutions. The driver must also be on the way to or from his or her place of employment or educational or other institution. "Ride sharing" includes ride sharing on Washington state ferries.

(c) What is "public transportation"? "Public transportation" means the transportation of packages, passengers, and their incidental baggage, by means other than by charter bus or sight-seeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. "Public transportation" includes passenger services of the Washington state ferries.

(d) What is "car sharing"? "Car sharing" means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(e) What is "non-motorized commuting"? "Non-motorized commuting" means commuting to and from the workplace by an employee, by walking or running or by riding a bicycle or other device not powered by a motor. "Non-motorized commuting" does not include teleworking, which is a program where work functions normally performed at a traditional workplace are instead performed by an employee at his or her home, at least one day a week for the purpose of reducing the number of trips to the employee's workplace.

(f) What is the credit amount? The amount of the credit is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year.

(g) What is a "fiscal year"? A "fiscal year" begins at July 1st of one year and ends on June 30th of the following year.

(h) When will the credit expire? The credit program is scheduled to expire July 1, 2013.

(i) What are the limitations of the credit?

(i) The credit may not exceed the amount of B&O tax or public utility tax that would otherwise be due for the same fiscal year.

(ii) A person may not receive credit for amounts paid to or on behalf of the same employee under both B&O tax and public utility tax.

(iii) A person may not take a credit for amounts claimed for credit by other persons.

(iv) Total credit received by a person against both B&O tax and public utility tax may not exceed two hundred thousand dollars for a fiscal year. This limitation does not apply to credits deferred from prior fiscal years as described in (vii) of this subsection.

(v) Total credit granted to all persons under both B&O tax and public utility tax may not

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exceed two million two hundred fifty thousand dollars for a fiscal year, including any credits carried forward from prior fiscal years as described in (vii) of this subsection.

(vi) No credit or portion of a credit denied, because of exceeding the limitations in (iv) or (v) of this subsection, may be used against tax liability for other fiscal years, subject to (vii) of this subsection.

(vii) A person, with B&O tax and public utility tax liability equal to or in excess of the credit for a fiscal year, may defer all or part of the credit for a period of not more than three fiscal years after the fiscal year in which the credit accrued. Such person deferring tax credit must submit an application in the fiscal year tax credit will be applied. This application is subject to eligibility under (v) of this subsection for the fiscal year tax credit will be applied.

(viii) No person is eligible for the tax credit, including the deferred tax credit authorized under (vii) of this subsection, after June 30, 2013.

(ix) No person is eligible for tax credit if the additional revenues for the multimodal transportation account created under RCW 46.68.035(1), RCW 82.08.020(3), RCW 82.12.045(7), RCW 46.16.233(2), and RCW 46.16.690 (created by the Engrossed Substitute House Bill No. 2231, Chapter 361, Laws of 2003) are terminated.

(j) What are the credit procedures?

(i) Persons apply for the credit, by completing a commute trip reduction reporting schedule and filing it with the excise tax return covering the period for which the credit is claimed. The commute trip reduction reporting schedule is available upon request from the department of revenue.

(ii) Credit must be claimed by the due date of the last tax return for the fiscal year in which the payment to or on behalf of employees was made.

(A) Credit not previously claimed may not be claimed for the first time on supplemental or amended tax returns filed after the due date of the last tax return for the fiscal year in which the payment to or on behalf of employees was made.

(B) If the department of revenue has granted an extension of the due date for the last tax return for the fiscal year in which the payment to or on behalf of employees was made, the credit must be claimed by the extended due date.

(iii) Once the statewide limitation of two million two hundred fifty thousand dollars is reached in a fiscal year, no further credit will be available for that fiscal year. Credit is permitted by the department of revenue on a first-come-first-serve basis. Credit claimed after the statewide limitation is reached may be deferred to the next three fiscal years before the credit expires.

(k) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) An employer pays \$180 for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of \$50. These are the total expenditures during a fiscal year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, using car sharing, and using non-motorized commuting.

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The employer may claim a credit of \$60 for the amount spent for the employee using the bus pass. Fifty percent of \$180 is \$90, but the credit is limited to \$60 per employee. The employer may claim a credit of \$25 (50% of \$50) for the amount spent for the employee who bicycles to work. Even though fifty percent of \$230, the amount spent on both employees, works out to be less than \$60 per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

(ii) An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

(iii) As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit, if it does not cause the sixty dollar limitation to be exceeded, because it is an amount paid on behalf of a specific employee.

(iv) An employer pays the property manager for a yearly bus pass for one employee who works at the worksite managed by the property manager. The property manager in turn pays the amount received from the employer to a public transportation agency to purchase the bus pass. Either the employer or the property manager, but not both, may take the credit for this expenditure.