



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JUNE 4, 2010

Legislative Change to Use Tax

Purpose

Second Engrossed Substitute Senate Bill (2ESSB) 6143, Part II, Subsection 206 amends RCW 82.12.020 by eliminating the list of specific methods of acquiring tangible personal property that are subject to use tax.

Use tax liability for casual or isolated transactions

It is important to note that pursuant to this amendment to RCW 82.12.020 and in accordance with WAC 458-20-106 (Rule 106), where there has been a transfer of the capital assets to or by a business, the use of such property is not deemed taxable to the extent the transfer was accomplished through an adjustment of the beneficial interest in the business, provided, the transferor previously paid sales or use tax on the property transferred.

For example, Selling Corporation transfers 1,000 hats to a Subsidiary LLC and then sells the membership interests in Subsidiary LLC to Buying Corporation. Buying Corporation then dissolves Subsidiary LLC and begins using the 1,000 hats. Buying Corporation owes use tax on the 1,000 hats it has acquired through an adjustment of beneficial interest in Subsidiary LLC if Subsidiary LLC has not previously paid sales or use tax.

The transfer of the 1,000 hats from Selling Corporation to Subsidiary LLC is exempt from use tax if Selling Corporation already paid sales or use tax on the property transferred.

Use tax on items manufactured for commercial or industrial use

Additionally, an issue has arisen as to whether the Legislature inadvertently dropped use tax on items "extracted or produced or manufactured by the person using the same" commonly referred to as manufactured for commercial or industrial use. The legislative intent was just to do away with the "drop kick" use tax avoidance. Further, the legislation did not remove the definition of "commercial or industrial use" and continues the special rule for valuing property that is "extracted or produced or manufactured by the person using the same." Thus, the application of use tax on items manufactured for commercial or industrial use is unchanged.

For more information

Visit our website at dor.wa.gov, send an email to dorcommunications@dor.wa.gov, or call the Department's Telephone Information Center at 1-800-647-7706.

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