



State of Washington
Department of Revenue

Excise Tax Advisory

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**This ETA is cancelled effective February 2, 2009 and reissued under the 3000 series.
See ETA 3001 for a cross-reference to the new series.**

USE TAX IN RELATION TO USE OF PRIVATE AIRPLANES FOR BUSINESS WITHIN AND WITHOUT THE STATE

Issued July 10, 1972

Does the Use Tax apply to private airplanes where purchased and delivered outside the state to a Washington resident and substantially used outside the state?

The taxpayer, a Washington construction company, was assessed a Use Tax upon the purchase price of two airplanes. These planes were purchased outside the state and delivery in both cases was taken by the taxpayer in another state. The taxpayer used the planes for the purpose of securing and performing several large out-of-state contracts held by him. The taxpayer contended that the planes were so large that it was practically and economically unfeasible to use them on Washington state construction jobs. The planes, however, were used in commuting between the main office in this state and various job sites. They were hangared in Washington occasionally, but most of the time were kept at out-of-state points. The taxpayer's position was that the imposition of the Use Tax by this state was a levy that was susceptible to multiple imposition on the same basis by all other states in which the taxpayer performed contracts and used the planes.

The Tax Commission held that these planes were used at the outset both within and without the state and were used substantially in interstate flights. Under Washington law, there is an exemption for persons acting as air carriers regularly transporting persons or property of others for hire with respect to the use of aircraft in conducting such interstate transportation for hire. RCW 82.12.-030(4). There was also a Use Tax exemption for nonresidents buying property outside the state where such property was purchased while the person was a nonresident primarily for use outside the state and the same was used there substantially before

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it was brought into the state. (Rule 178).* It was clear in this instance that neither of these exemptions were available to the taxpayer since he is not a carrier for hire operating in interstate

commerce nor were the planes purchased for use outside the state and substantially so used before bringing them into Washington.

Therefore, since the taxpayer was a resident of Washington and his home office was here, the Commission concluded that the planes were purchased for use within and without the state for the purpose of commuting to out-of-state job sites. There is no statutory exemption available to a taxpayer for property so used.

* This prior use tax exemption is no longer available for periods subsequent to July 1, 1970. Rule 178 now provides that use tax liability arises at the time when the property which is purchased outside the state without payment of retail sales tax is first put to use in this state.