

SALES TAXES

RETAIL SALES/USE TAX - INTERSTATE SALES

82.08.0254 CONSTITUTIONALLY EXEMPT SALES

82.12.0255

Description: Sales that the state is prohibited from taxing under the state and federal constitutions are exempt from retail sales/use tax. These statutes are "catch-all" provisions covering situations that are not covered by other specific exemptions. The major items covered by this general exemption are sales in which delivery is made to an out-of-state location, sales to the U.S. government and sales to Indians.

Purpose: To recognize the prohibition against taxing the federal government and Indians or placing an impermissible burden on interstate commerce.

Category/Year Enacted: Commerce (reflects the majority of the exemption). 1935

Primary Beneficiaries: Washington manufacturers that sell out of state, the federal government, Indians.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$136,109	\$145,909	\$152,235	\$158,963
Local taxes	\$ 35,598	\$ 38,161	\$ 39,815	\$ 41,575

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? No.

82.08.0255(2) SPECIAL FUEL

82.12.0256(2)

Description: Exemption from retail sales/use tax is allowed for special fuel (diesel, propane, etc.) purchased in Washington but used outside of the state by persons engaged in interstate commerce.

Purpose: To maintain equity with other states in the application of sales tax to fuel purchases.

Category/Year Enacted: Commerce. 1983

Primary Beneficiaries: Interstate truckers.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 1,370	\$ 1,316	\$ 1,397	\$ 1,505
Local taxes	\$ 401	\$ 385	\$ 408	\$ 440

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? No; interstate carriers would likely shift their fuel purchases to other states.

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82.08.0261 ITEMS USED IN INTERSTATE COMMERCE

Description: Exemption from retail sales tax is provided for tangible personal property, other than airplanes, locomotives, railroad cars and watercraft, that is used by the purchaser in connection with operation as a private or common carrier by air, rail or water in interstate or foreign commerce. Examples include linens, bedding, chairs, tableware and similar items purchased in Washington for use in other states. Any actual use of the item within this state is subject to use tax.

Purpose: To encourage purchases of these items in Washington.

Category/Year Enacted: Commerce. 1935

Primary Beneficiaries: Manufacturers and vendors of supplies and repair parts used in commerce.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 109	\$ 117	\$ 122	\$ 128
Local taxes	\$ 29	\$ 31	\$ 31	\$ 33

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Unlikely.

82.08.0262 INTERSTATE TRANSPORTATION EQUIPMENT

Description: Sales of airplanes, locomotives, railroad cars, watercraft and their component parts are exempt from retail sales tax, if the items are used in interstate or foreign commerce or in commercial deep-sea fishing outside of Washington waters. Also exempt are charges made for repairing, cleaning, altering and improving this equipment for motor carriers with permits issued by the federal Department of Transportation (formerly the Interstate Commerce Commission).

Purpose: To increase the competitive position of Washington manufacturers relative to out-of-state competitors and to encourage sale and delivery of these products in this state. The exemption recognizes that firms engaged in interstate transportation could take delivery of such equipment outside of the state and thereby avoid retail sales tax with minimal cost.

Category/Year Enacted: Commerce. 1949

Primary Beneficiaries: Interstate carriers of passengers and freight and the Washington firms that manufacture and service these items.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 69,057	\$ 74,030	\$ 77,239	\$ 80,653
Local taxes	\$ 20,186	\$ 21,639	\$ 22,578	\$ 23,575

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Unlikely.

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82.08.0263 MOTOR VEHICLES IN INTERSTATE COMMERCE

Description: Sales of motor vehicles and trailers for use in interstate and foreign commerce are exempt from retail sales tax when the purchaser or user holds a permit issued by the federal Department of Transportation (formerly the Interstate Commerce Commission).

Purpose: To increase the competitive position of Washington manufacturers relative to out-of-state competitors and to encourage sales in Washington by allowing delivery of these vehicles to occur in-state.

Category/Year Enacted: Commerce. 1949

Primary Beneficiaries: Manufacturers of motor vehicles (trucks) and trailers and their customers.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 11,744	\$ 12,590	\$ 13,136	\$ 13,716
Local taxes	\$ 3,072	\$ 3,293	\$ 3,436	\$ 3,587

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Unlikely.

82.08.0264 VEHICLES SOLD TO NONRESIDENTS

Description: Sales of motor vehicles, trailers or campers to nonresidents are exempt from retail sales tax, provided the vehicle will be used in Washington only temporarily, be taken directly outside of this state and be registered in the state of the purchaser's residence.

Purpose: To eliminate a potential disadvantage for in-state vehicle dealers who compete against dealers in other states. Other purchases by nonresidents are subject to sales tax if delivery occurs within this state, unless the provisions of RCW 82.08.0273 (residents of states with no or low sales taxes) apply.

Category/Year Enacted: Individuals. 1935

Primary Beneficiaries: Washington vehicle dealers and nonresident purchasers.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 35,814	\$ 38,392	\$ 40,056	\$ 41,827
Local taxes	\$ 10,487	\$ 11,242	\$ 11,730	\$ 12,248

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? No; buyers could simply take possession outside the state.

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82.08.0265 ITEMS REPAIRED FOR NONRESIDENTS

Description: Charges for repair, cleaning, altering or installing tangible personal property belonging to a nonresident are exempt from retail sales tax, if the property is delivered to a location outside of the state.

Purpose: To increase the competitive position of Washington firms that repair items for nonresidents.

Category/Year Enacted: Individuals. 1959

Primary Beneficiaries: Washington firms that repair items for nonresidents.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 3,712	\$ 3,979	\$ 4,152	\$ 4,335
Local taxes	\$ 971	\$ 1,041	\$ 1,086	\$ 1,134

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? No.

82.08.0266 WATERCRAFT SOLD TO NONRESIDENTS

82.12.02665

Description: The sale of watercraft to nonresidents for use outside of Washington is exempt from retail sales/use tax if the craft is required to be registered with the Coast Guard or in the state of principal use. The boat may not be used in Washington for more than 45 days.

Purpose: To encourage nonresidents to purchase boats in Washington. Allowing the buyer to take delivery in Washington, as part of a "shake-down" cruise, without incurring sales/use tax liability helps to encourage purchases by nonresidents.

Category/Year Enacted: Individuals. 1959; extended to foreign nonresidents in 1993.

Primary Beneficiaries: Washington boat dealers and nonresident purchasers.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 5,067	\$ 5,431	\$ 5,667	\$ 5,917
Local taxes	\$ 1,325	\$ 1,421	\$ 1,482	\$ 1,548

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Unlikely.

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82.08.0268 FARM EQUIPMENT SOLD TO NONRESIDENTS

Description: Farm machinery sold to nonresidents of Washington is exempt from retail sales tax, if the equipment is immediately transported out of state. The exemption includes parts and labor for repair services performed on machinery and implements that are used for farming outside of the state.

Purpose: To allow Washington implement dealers to effectively compete with dealers in neighboring states which either exempt farm machinery or have a lower (or no) sales tax.

Category/Year Enacted: Agriculture. 1961; expanded to in-state repair services in 1998.

Primary Beneficiaries: Washington farm equipment dealers, especially those in close proximity to other states.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 3,586	\$ 3,844	\$ 4,011	\$ 4,188
Local taxes	\$ 1,048	\$ 1,124	\$ 1,173	\$ 1,224

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Unlikely, these purchases would probably be made from dealers in other states.

82.08.0269 SALES TO ALASKA & HAWAII

Description: Sales to residents of states, territories and possessions of the U.S. which are not contiguous to any other state are exempt from retail sales tax, if the seller delivers the property to an in-state receiving terminal of a carrier that transports the goods to an out-of-state location.

Purpose: To facilitate sales to residents of Alaska, Hawaii and U.S. possessions and territories and to encourage trade through Washington ports.

Category/Year Enacted: Individuals. 1961

Primary Beneficiaries: Firms that sell to residents of Alaska, Hawaii and U.S. territories.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000) Minimal. Most sales to such residents would be exempt under other statutes relating to interstate commerce.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? No, buyers could easily make alternative shipping arrangements.

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82.08.0273 SALES TO CERTAIN NONRESIDENTS

Description: Persons who reside in a state, possession or Canadian province which levies a sales tax of less than 3.0 percent are exempt from Washington retail sales tax on tangible personal property purchased for use outside of Washington (i.e., the exemption does not apply to lodging or meals). Sales to residents of other states may also be exempt if their state of residence allows similar exemption for Washington residents; however, no state currently qualifies under this provision of reciprocity.

Purpose: To enable Washington sellers, especially along the Oregon border, to compete with merchants in other states that either: (1) do not levy a retail sales tax or (2) levy a sales tax with a low rate.

Category/Year Enacted: Individuals. 1965; a fee of \$5 for a nonresident permit was eliminated in 1989; in 1993 only one piece of identification was required.

Primary Beneficiaries: Residents of Oregon, Alaska, Montana and the Canadian province of Alberta. Also the exemption benefits Washington retailers, especially those located in border areas.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 39,002	\$ 41,810	\$ 43,623	\$ 45,551
Local taxes	\$ 11,401	\$ 12,222	\$ 12,751	\$ 13,315

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Possibly to some extent, but purchases by currently eligible nonresidents would decline.

82.08.0279 NONRESIDENTS' RENTAL VEHICLES

Description: Retail sales tax does not apply to the rental or lease of motor vehicles and trailers by nonresidents (including persons with places of business both inside and outside of Washington) for exclusive use in interstate commerce. To qualify, the vehicle must be registered and most frequently dispatched, garaged and serviced at a location outside of Washington. The exemption includes the use of a vehicle or trailer that is registered in a different state to transport persons or property between Washington locations, if the use is incidental to the use of the vehicle or trailer in interstate commerce.

Purpose: To relieve lessors of responsibility for collecting sales tax on the in-state use of rental cars, motor vehicles and trailers by a nonresident motor carrier engaged in interstate commerce and to encourage such businesses to rent or lease in Washington.

Category/Year Enacted: Commerce. 1980

Primary Beneficiaries: Vehicle rental firms with locations in Washington and in other states.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 14	\$ 15	\$ 16	\$ 17
Local taxes	\$ 4	\$ 5	\$ 5	\$ 5

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Unlikely.

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82.08.050(5) SELLERS WITH LIMITED CONNECTION TO WASHINGTON **82.12.040(5)**

Description: Exemption from retail sales/use tax is provided for businesses selling into Washington, if their in-state activities are limited to advertising, taking orders or processing payments, and if these activities are conducted via a website on a computer server that is located in Washington and is owned and operated by another firm.

Purpose: At the time this exemption was enacted, such sales were not taxable due to the federal Internet Tax Freedom Act (ITFA) which expired on November 1, 2003. However, it is expected that the ITFA will be re-enacted by Congress. This exemption was enacted in case that the ITFA is not re-enacted.

Category/Year Enacted: Other business. 2003

Primary Beneficiaries: A very small number of firms might benefit from this exemption.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000) Minimal, if ITFA is not re-enacted. None, if it is.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Unlikely, particularly if the federal Internet Tax Freedom Act is extended by Congress.

82.08.850 EXPORTED CONIFER SEEDLINGS **82.12.850**

Description: Exemption from retail sales/use tax is provided for customer-owned conifer seeds that are placed in freezer storage operated by the seller and for customer-owned conifer seedlings that are subsequently used for growing timber outside of Washington or in Indian country within Washington.

Purpose: To eliminate the tax disadvantage for Washington conifer seed producers compared with out-of-state producers.

Category/Year Enacted: Agriculture. 2001

Primary Beneficiaries: A very small number of Washington firms.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 16	\$ 16	\$ 16	\$ 16
Local taxes	\$ 4	\$ 4	\$ 4	\$ 4

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Yes.

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82.12.0251 NONRESIDENTS' PERSONAL PROPERTY

Description: Use tax does not apply to tangible personal property brought into Washington by a nonresident for temporary use or enjoyment, so long as the item is not used in conducting a nontransitory business activity. This statute also exempts the use of a motor vehicle that is registered in another state if the vehicle is not required to be registered in Washington and the use of household goods, personal effects and private motor vehicles (excluding motor homes) by residents of Washington (and nonresident military personnel who are stationed in Washington), if the items were acquired and used while the owner was a resident of another state at least 90 days before entering this state.

Purpose: To encourage tourism in Washington and to avoid penalizing new residents of Washington by subjecting previously owned items to use tax.

Category/Year Enacted: Individuals. 1935

Primary Beneficiaries: Nonresidents who visit Washington on a temporary basis and new residents to the state who bring used household goods and vehicles with them.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$4,041,595	\$4,332,590	\$4,520,408	\$4,720,210
Local taxes	\$1,181,389	\$1,266,449	\$1,321,350	\$1,379,754

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Unlikely; such a tax would be difficult and costly to administer.

82.12.0254 VEHICLES USED IN INTERSTATE COMMERCE

Description: Use tax does not apply to the use of any airplanes, locomotives, railroad cars or watercraft and their component parts that are primarily used to transport property or persons for hire in interstate or foreign commerce. The exemption also applies to vessels primarily used in conducting commercial fishing operations outside of Washington waters.

Purpose: To encourage the use of Washington-based transportation providers.

Category/Year Enacted: Commerce. 1937

Primary Beneficiaries: Providers of interstate and foreign commerce transportation services.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 30,473	\$ 32,667	\$ 34,084	\$ 35,590
Local taxes	\$ 7,970	\$ 8,544	\$ 8,914	\$ 9,308

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? No.

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82.12.0266 VEHICLES ACQUIRED IN THE MILITARY

Description: Exemption from use tax is provided for vehicles and trailers acquired and used by Washington residents while they were in the armed forces and stationed outside of Washington. The exemption does not cover persons called to active duty for training of less than six months or for vehicles acquired less than 30 days prior to discharge from the military.

Purpose: To support resident armed forces members and to create equity. Under RCW 82.12.0251 nonresidents who bring their vehicles into Washington and establish residency here are exempt from use tax.

Category/Year Enacted: Individuals. 1963

Primary Beneficiaries: Resident members of the armed forces.

Possible Program Inconsistency: None evident.

<u>Taxpayer Savings (\$000)</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State tax	\$ 1,756	\$ 1,883	\$ 1,965	\$ 2,051
Local taxes	\$ 513	\$ 550	\$ 574	\$ 600

If the exemption were repealed, would the taxpayer savings be realized as increased revenues? Yes.