



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

APRIL 19, 2010

## Bad Debt Deduction – Limited

### Background

Under RCW 82.08.037 and RCW 82.12.037 a seller is entitled to a refund or a credit against current sales tax liability for sales and use tax previously paid on bad debts. In the case of *Puget Sound National Bank v. Dep't of Revenue*, 123 Wn.2d 284 (1994), the Washington Supreme Court held that this credit extended to third parties who purchased or were assigned such debt, even though these third parties did not have recourse against the seller.

### Purpose & Effect

Second Engrossed Substitute Senate Bill (2ESSB) 6143, Part XV supersedes the *Puget Sound National Bank* case and limits the bad debt credit or refund to the seller. Part XV clarifies that the seller's right to claim a credit or refund is not assignable. If the original seller in the transaction that generated the bad debt has sold or assigned the bad debt instrument to a third party with recourse, the original seller may claim a credit or refund under RCW 82.08.037 or RCW 82.12.037, but only after the debt instrument is reassigned by the third party to the original seller.

### Applicability

The effective date is July 1, 2010.

### Bad Debt Definition

For the purpose of this deduction the term "bad debts" does not include:

- 1) Amounts due on property that remains in the possession of the seller until the purchase price is paid in full;
- 2) Expenses incurred in attempting to collect the debt;
- 3) ***Debts sold or assigned by the seller to third parties, where the third party is without recourse against the seller;*** and
- 4) Repossessed property.

### For more Information

Contact the Department's Telephone Information Center at 1-800-647-7706.