

USE TAX
Chapter 82.12 RCW

Tax Base Items used in this state, the acquisition of which was not subject to Washington retail sales tax. This includes purchases made from out-of-state sellers (e.g., via catalogs, the Internet, etc.), purchases from sellers who are not required to collect Washington sales tax (e.g., a vehicle sold by a private individual who is not engaged in business), items produced for use by the producer, and gifts/prizes. The tax is measured by the value of the item at the time of the first use within the state, excluding delivery charges.

Tax Rate Same as retail sales tax - 6.5 percent levied by the state (RCWs 82.12.020(5) and 82.08.020(6)). An additional 0.3 percent tax applies to the use of new or used motor vehicles. Including local use taxes, the combined rate currently ranges from 7.0 to 9.5 percent for most taxable items (7.3 to 9.8 percent for vehicles).

Levied by State (also see section on local sales/use taxes)

Recent Collections (\$000)

<u>Fiscal Year</u>	<u>Collections</u>	<u>% Change</u>	<u>% of All State Taxes</u>
2009	\$465,418	(10.1)%	3.0%
2008	517,979	1.3	3.1
2007	511,374	8.4	3.0
2006	471,744	3.9	3.1
2005	453,901	16.1	3.3
2004	391,015	3.8	3.0
2003	376,648	(0.1)	3.1
2002	377,121	(6.0)	3.2
2001	401,326	4.6	3.4
2000	383,796	14.3	3.3

Administration

Department of Revenue. Tax on equipment bought in other states and on manufactured items used in production is reported by businesses on their Combined Excise Tax Return. Tax on private sales of registered vehicles is collected by county auditors and registration agents when the title is transferred. Individuals who acquire items which were not subject to sales tax (e.g., purchases in other states, at garage sales, etc.) are obligated to report the

tax on the Consumer Use Tax Return which is obtainable at any Department field office or by telephone. Purchasers who buy at least \$10 million of goods subject to sales/use tax annually may report the tax directly by obtaining a direct pay permit from the Department. This allows the tax to be reported during the same month via electronic funds transfer by the purchaser, rather than the retail vendor.

Distribution of Receipts

Most receipts go to the state general fund (approximately 98.8 percent of the total).

Proceeds from the additional 0.3 percent tax on new/used motor vehicles goes to the multimodal transportation account for use in financing transportation improvements (RCW 82.08.020(3)).

Pursuant to Initiative 900, adopted by the voters in November 2005, 0.16 percent of state use tax collections is deposited in the performance audits of government account and is used to finance the costs of such audits (RCW 82.12.0201). This special earmarking began December 8, 2005.

A variety of local taxes are credited against the state retail sales and use tax, e.g., for stadium construction, local public facilities, convention centers, and tourism programs. Revenues are distributed to the appropriate local funds. (See Retail Sales Tax section.)

Exemptions and Credits

Use tax exemptions parallel those allowed under the retail sales tax. There are a few additional use tax exemptions such as for computers donated to schools and items donated to nonprofit organizations or governmental entities, vehicles acquired in other states by military personnel, driver-training vehicles, extracted fuel used in production, displays at trade shows, use of vessels by manufacturers and dealers for a variety of purposes, and items previously acquired by persons who move to Washington. In computing use tax, a credit is allowed for any sales or use tax paid in other states.

Generally, the use tax applies to the fair market value of the item at the time it is first used in this state. However, items used temporarily in this state for business purposes for less than 180 days during any 365 consecutive days are subject to use tax on the rental value.

History

See retail sales tax. The use tax was established as a "compensating" tax at the time the retail sales tax was adopted in 1935. All of the subsequent rate changes and most of the tax base revisions have applied to both the retail sales and use taxes.

Discussion/Major Issues

The use tax supplements the retail sales tax; together they constitute a comprehensive tax on consumption of tangible personal property in Washington. In addition to raising revenue and assuring that no "loopholes" exist for items which might otherwise escape retail sales tax, the tax helps to protect Washington retailers from competition via untaxed transactions.

Currently, the state may not require remote sellers to collect sales tax on their sales to Washington residents if the firm has no physical presence (nexus) in this state. This results from the 1967 U. S. Supreme Court decision in the Bellas Hess case and was reaffirmed by the 1992 decision in the Quill case. States have attempted to get the court to reverse its opinion and have lobbied Congress to change the law. Many E-commerce and mail order sellers have resisted efforts of states to have them collect the sales/use tax on purchasers from their state, in part due to difficulties of collecting the proper local sales tax rate in states, such as Washington, which have a variety of local rates and many local taxing jurisdictions.

Purchases via telemarketing and the Internet are increasing at a significant rate and these pose a major threat to sales and use tax revenues. The latest estimates indicate that state and local jurisdictions in Washington are currently losing at least \$465 million per year in sales/use tax revenues as a result of mail order and E-commerce transactions.

Legally, Washington residents owe use tax on items which were not subject to sales tax. Examples include items purchased in other states and brought into Washington for use here, purchases made via mail order and the Internet (even though the out-of-state seller cannot be required to collect sales tax, the buyer still owes use tax), and items bought from persons other than registered retail vendors, such as at garage sales. From a practical perspective, it is very difficult and would be prohibitively expensive to enforce payment of use tax in all situations in which it is technically due, especially as it applies to individual purchases.

As a result of the difficulties of collection, much of the use tax is paid by businesses, since they are subject to audit. Purchases of vehicles from private sellers represent the most significant category of use tax that is paid by individuals. Among major state taxes, the use tax has the largest level of noncompliance, estimated at nearly 20 percent of the potential tax liability.