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## **Parking Fees as Income from Rental of Real Estate**

Where designated parking spaces are rented for thirty day periods for the exclusive use of a customer, is the income from parking fees exempt from retail sales tax as income from rental of real estate?

RCW 82.04.050 includes within the definition of retail sale fees received by persons engaging in the automobile parking and storage garage businesses. However, the retail sales tax does not apply to rentals of real estate. WAC 458-20-118 defines a lease or rental of real estate as an agreement which

. . . conveys an estate or interest in a certain designated area of real property with an exclusive right in the lessee of continuous possession against world, including the owner, and grants to the lessee the absolute right of control and occupancy during the term of the lease or rental agreement . . . .

When a parking business rents designated parking spaces for thirty day periods and the customers parked their own cars and had the right of exclusive use of designated parking spaces, the parking fees are from the rental of real estate and not subject to retail sales tax. Income from such rentals is also exempt from the business and occupation tax. RCW 82.04.390.

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