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ETA 3069.2010

Issue Date: June 3, 2010

Use Tax on Property Acquired by Inheritance

Is use tax due upon tangible personal property acquired by inheritance where the testator has not paid retail sales tax on the property?

As an example, Smith was in possession of a boat owned by Smith's father that Smith intended to purchase. Smith carried the boat on Smith's business books as an asset and reported it as a deductible expense item on federal tax returns. The father died testate before Smith could actually purchase the boat and left his entire estate to Smith. All available records indicated a failure by Smith's father to pay retail sales tax upon his original acquisition of the boat.

A gift received from a donor who has not paid the retail sales tax thereon is subject to the use tax.

RCW 82.12.020 provides in part:

There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any article of tangible personal property acquired by the user in any manner (Emphasis added.)

It was immaterial whether the boat was acquired by outright gift prior to the donor's death or by inheritance. Both methods of conveyance are contemplated by the statute, which imposes the use tax against the property where retail sales tax has not been paid.

In cases of inheritance only infrequently is there a serious question of whether the deceased had paid retail sales tax on the bequests, but when it is determined that the retail sales tax was not paid, the statute requires imposition of the use tax.

Use tax is properly due on inherited tangible personal property where the testator (donor) failed to pay retail sales tax upon his original purchase thereof.

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