

Eligibility for the B&O Tax Exemption for Wholesale Sales Between New Car Dealers When Making a Purchase Under an Asset Purchase Agreement

Purpose

This Excise Tax Advisory (ETA) explains how the B&O tax exemption provided by RCW 82.04.422(2) for wholesale sales of new motor vehicles between new car dealers applies when the sale is made under the terms of an “Asset Purchase Agreement” (APA). Specifically, this ETA provides guidance for sales when the purchaser is in the process of obtaining a “new vehicle dealer license” from the Department of Licensing (DOL) for the make of vehicle to be purchased.

Additional Information: See [RCW 82.04.422](#) for the statute authorizing the exemption. Refer to [WAC 458-20-208](#) for additional information about the exemption.

Definition: “Motor Vehicle”

A “motor vehicle” is a vehicle that is self-propelled and is required to be registered and titled under Title 46 RCW, has not been previously titled to a retail purchaser, and is not a “used vehicle.” A used vehicle for purposes of this definition is as defined under RCW 46.04.660.

Definition: “New Motor Vehicle”

A “new motor vehicle” is a motor vehicle owned by a dealer that has a sales and service agreement with the manufacturer/distributor of those vehicles (collectively referred to as “manufacturer” for purposes of this ETA), the title to which is evidenced by a Manufacturer’s Statement of Origin (MSO).

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**Definition:
“APA”**

An APA is a contract under which a licensed new motor vehicle dealer is contracting to sell new motor vehicles to a purchaser who:

- Has applied to the manufacturer of those vehicles for a sales and service agreement authorizing the retail sale of those new motor vehicles and subsequently obtains the sales and service agreement; and
 - Has applied to the Department of Licensing (DOL) for a new motor vehicle dealer’s license.
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**Conditions
under which
the exemption
applies to sales
under an APA**

A new car dealer selling to a purchaser pursuant to an APA is entitled to the exemption provided by RCW 82.04.422(2) if the selling new car dealer can present proof and DOL can verify that any 1 of the following 3 options has been satisfied.

Note: The time periods provided in these options will be extended by DOR if the purchaser:

- Demonstrates good cause; and
 - Does in fact secure a new motor vehicle dealer license from DOL for the make of the vehicle.
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**Option 1 – All 3
conditions must
be met**

- DOL received prior to the APA closing an application by the purchaser for a new motor vehicle dealer’s license, including documents required by the Master Application and dealer application; and
 - DOL received within 30 days of the APA closing from the purchaser a fully-executed sales and service agreement for the make of motor vehicles sold under the APA; and
 - The purchaser is issued a new motor vehicle dealer’s license for the same make of vehicles purchased.
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Option 2 – All 4 conditions must be met

- DOL received prior to the APA closing an application by the purchaser for a new motor vehicle dealer’s license, including documents required by the Master Application and dealer application; and
 - The purchaser received prior to closing the APA a commitment letter or letter of intent from the manufacturer of the new motor vehicles to be purchased. This letter must indicate that the manufacturer unconditionally or conditionally agrees that the purchaser will be issued a sales and service agreement for the make of the new motor vehicles subject to the APA; and
 - DOL received from the purchaser within 30 days of the APA closing the fully-executed sales and service agreement; and
 - The purchaser is issued a new motor vehicle dealer’s license for the same make of vehicles purchased.
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Option 3 – All 4 conditions must be met

- DOL received prior to the APA closing an application by the purchaser for a new motor vehicle dealer’s license, including documents required by the Master Application and dealer applications; and
 - The purchaser, prior to the APA closing, signed and sent to the manufacturer of the new motor vehicles subject to the APA a sales and service agreement provided by the manufacturer; and
 - DOL received from the purchaser within 30 days of the APA closing the fully-executed sales and service agreement; and
 - The purchaser is issued a new motor vehicle dealer’s license for the same make of vehicles purchased.
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