

**RCW 82.04.450 Value of products, how determined.** (1) The value of products, including by-products, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller, except:

(a) Where such products, including by-products, are extracted or manufactured for commercial or industrial use;

(b) Where such products, including by-products, are shipped, transported or transferred out of the state, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale.

(2) Except as otherwise provided in this subsection, in the cases described in subsection (1)(a) and (b) of this section, the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products.

(a) The value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond: (i) To the retail selling price of such new or improved product when first offered for sale; or (ii) to the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale. The department of revenue shall prescribe uniform and equitable rules for the purpose of ascertaining such values.

(b) In the case of asphalt or aggregates manufactured or extracted by a person providing services taxable under RCW 82.04.280(1)(b) and used by that person in providing those services, the value of the asphalt or aggregates is equal to the sum of all direct and indirect costs attributable to the asphalt or aggregates used, plus a public road construction market adjustment of five percent of those costs. [2023 c 307 s 3; 1983 1st ex.s. c 55 s 3; 1975 1st ex.s. c 278 s 42; 1961 c 15 s 82.04.450. Prior: 1949 c 228 s 3; 1941 c 178 s 4; 1935 c 180 s 7; Rem. Supp. 1949 s 8370-7.]

**Findings—Intent—2023 c 307:** "(1) The legislature finds that public road construction and repair is vital to the continued development of economic opportunity in this state.

(2) The legislature finds that the vast majority of public road construction projects involve paving companies that self-manufacture the asphalt and aggregates used in public road construction projects. Because most of the asphalt and aggregates these companies produce is used for their own public road construction projects, the legislature finds that it is difficult to obtain objective, consistent, and reliable information regarding the market value of the asphalt and aggregates used in public road construction projects.

(3) In light of the unique circumstances surrounding the valuation of self-manufactured asphalt and aggregates incorporated into public roads, the legislature intends to establish a method for valuing asphalt and aggregates that reduces the burdens on taxpayers and the department of revenue promotes certainty and consistency in

the calculation of use tax and business and occupation tax on self-manufactured asphalt and aggregates across the paving industry." [2023 c 307 s 1.]

**Application—2023 c 307:** "This act applies prospectively only to tax liability incurred as a result of contracts executed on or after August 1, 2023." [2023 c 307 s 4.]

**Effective date—2023 c 307:** "This act takes effect August 1, 2023." [2023 c 307 s 5.]

**Effective dates—1983 1st ex.s. c 55:** See note following RCW 82.08.010.

**Construction—Severability—1975 1st ex.s. c 278:** See notes following RCW 11.08.160.