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COMPLEX LITIGATION

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Dear Counsel:

I write to alert you to an apparent error in the government's arguments in support of the challenged Act. I learned of this error Friday, and intend to bring it to the Court's attention at oral argument tomorrow. Specifically, the government's briefs repeatedly assert that the government uses the 1996 MVET depreciation schedule. However, both the current website for the Department of Licensing and the information provided to bondholders in CPSRTA's 1999 bonds assert that the government does *not* use the 1996 depreciation schedule for valuing vehicles. In fact, the government informs the public and its bondholders that it uses a 1999 schedule, enacted by the legislature and confirmed by Referendum 49.

CPSRTA informed its bondholders that it would begin using that new schedule on July 1, 1999, affirming that it would follow changes in law governing depreciation schedules and shift to lower schedules following enactment of Ref. 49. I refer to this document:

<https://www.soundtransit.org/sites/default/files/documents/1999-sales-tax-and-mvet-bonds-official-statement.pdf>

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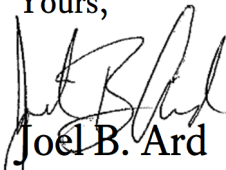
That December 1, 1998 document, titled “The Central Puget Sound Regional Transit Authority Sales Tax and Motor Vehicle Excise Tax Bonds, Series 1999” asserts on page 21 (27 of the pdf file):

Referendum 49. Referendum 49, enacted by the State’s voters on November 3, 1998, authorizes a credit of up to \$30 against the State’s motor vehicle excise tax on each personal-use motor vehicle. This credit does not affect Sound Transit’s collection of the Motor Vehicle Tax. Effective July 1, 1999, Referendum 49 also reduces the percentage applied in the second and third years of service to the manufacturer’s suggested retail price for determining the value of vehicles, thereby reducing the tax base upon which such taxes, including the Motor Vehicle Tax, may be collected. The percentage applied in the second year of service is reduced to 95% from 100%. The percentage applied in the third year of service is reduced to 89% from 91%. The Department of Licensing estimates that Referendum 49 will reduce the motor vehicle excise tax base by approximately 1.0 to 1.5%, and the 1999 Sound Transit Budget reflects an expected \$700,000 reduction in Motor Vehicle Tax. Sound Transit has not otherwise included the impact of Referendum 49 in its revenue forecasts. The remaining provisions of Referendum 49 reallocate the use of the State’s motor vehicle excise taxes and are not expected to affect Sound Transit’s finances or operations.

The Department of Licensing confirms the use of this schedule by publishing a vehicle valuation schedule here: <https://www.dol.wa.gov/vehicleregistration/depreciation-schedule.html>. The Department informs the public that it uses the valuation percentages drawn from the 1999 schedule.

I first discovered this discrepancy Friday. Late Friday afternoon, I received a call from a taxpayer seeking an explanation of the governing schedules. In investigating that inquiry, I found the two documents referenced above. Until then, I had assumed, based on representations in the government’s briefs, that the government uses the 1996 schedule. For example, CPSRTA stated in its Response Brief that “Sound Transit has used the 1996 depreciation schedule since it began collecting the MVET in 1997, continues to use it today, and is legally required to use the 1996 schedule until the bonds to which the MVET are pledged are paid off in 2028.” Resp. Brief at 2. This is one of the several dozen times the government’s briefs reference the 1996 schedule. The government never references the 1999 schedule amendments in papers, nor does it state whether or not the schedules in use “comply with chapter 82.44 RCW as it existed on January 1, 1996 . . .” We will address this tomorrow.

Yours,



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