Legislative Tax Changes

The 2006 Legislature made several changes to taxes and programs administered by the Department of Revenue. This publication provides a brief summary of some of the bills affecting excise taxes. For more information, please refer to the bill at http://apps.leg.wa.gov/billinfo/.

* Indicates a Special Notice will be issued

**Business and Occupation (B&O), Sales, and Use Taxes**

* Hospital patient lifting devices – ESHB 1672 (chapter 165, Laws of 2006) provides B&O tax credits to hospitals that purchase mechanical lifting devices and other equipment used to minimize manual patient handling, consistent with a safe patient handling program. The credit is available only for purchases made between June 7, 2006 and December 30, 2010. Effective June 7, 2006.

Comprehensive cancer centers – ESHB 2314 (chapter 514, Laws of 2005) provides a B&O tax exemption for amounts received by a comprehensive cancer center to the extent those funds are exempt from federal income tax. A sales and use tax exemption also applies to sales of medical supplies, chemicals, or materials to a comprehensive cancer center. This bill was passed in 2005 but takes effect this year. Effective July 1, 2006.

* Use tax exemption for state credit unions – HB 2364 (chapter 515, Laws of 2006) provides a use tax exemption for state credit unions on assets acquired from federal, foreign, and out-of-state credit unions as a result of a merger or conversion. Effective June 7, 2006.

* Farm machinery replacement parts – SHB 2457 (chapter 172, Laws of 2006) establishes a new retail sales tax and use tax exemption for replacement parts purchased by eligible farmers for qualifying farm machinery and equipment. To qualify for the exemption, a farmer must generally have at least $10,000 of gross income from farming activities and apply to the Department of Revenue. The Department will issue an exemption certificate to eligible farmers. Effective July 1, 2006.

* Excise tax return changes – HB 2671 (chapter 256, Laws of 2006) moves the monthly excise tax return due date to the 25th of the month following the reporting period; extends the time by which timely ACH debit electronic filing payments may be initiated to :59 p.m. Pacific time with an effective date on or before the next banking day after the due date; and eliminates the five percent penalty added to Department billings unless the amount underpaid is more than 20 percent of the tax due and at least $1,000. Billing penalty change effective July 1, 2006; other changes effective August 1, 2006.

* Nonprofit businesses promoting conventions and tourism – SHB 2778 (chapter 310, Laws of 2006) grants a B&O tax exemption to nonprofit corporations for payments or contributions received from governmental entities or Indian tribes that are used to promote conventions and tourism in Washington. Effective June 7, 2006.

* Tax exemptions for solar hot water systems – 2SHB 2799 (chapter 218, Laws of 2006) provides retail sales tax and use tax exemptions for purchases of qualifying solar energy water heating systems and equipment, replacement parts, and related installation and services. Effective July 1, 2006; expires July 1, 2009.
Tax obligations for insurers – SHB 2880 (chapter 278, Laws of 2006) clarifies that insurers are required to pay excise taxes on the sale, purchase, use, or possession of:

- Real property,
- Tangible personal property,
- Extended warranties, and
- Retail services.


Livestock nutrient management – ESHB 3222 (chapter 151, Laws of 2006) expands current sales and use tax exemptions for tangible personal property and services used exclusively to maintain dairy nutrient treatment facilities to include all licensed dairies, concentrated animal feeding lots, and animal feeds lots. Eligible persons must apply to the Department for an exemption certificate. The bill also expands the current sales and use tax exemptions for anaerobic digesters used to treat dairy manure to include anaerobic digesters used to treat all livestock manure. Effective July 1, 2006.

Customized employment training program – 2SSB 6326 (chapter 112, Laws of 2006) establishes a new program for customized employment training through community and technical colleges. Participating employers may claim a B&O tax credit for half of the amount repaid for employee training costs. Participating employers are required to increase their employment in this state by a minimum of 75 percent of the number of employees enrolled in the training program. Effective June 7, 2006.

Enhancing air quality at truck stops – SSB 6512 (chapter 323, Laws of 2006) provides a B&O tax deduction for businesses that sell, lease, or rent auxiliary power to heavy duty diesel vehicles through onboard or stand-alone electrification systems. In addition, the bill provides various retail sales and use tax exemptions. Effective June 7, 2006; expires July 1, 2015.

Syrup tax – SSB 6533 (chapter 245, Laws of 2006) creates a B&O tax credit for the portion of the syrup tax paid by buyers of syrup for use by the buyer to make carbonated beverages for sale. The portion of the syrup tax allowed as a credit is phased in, beginning at 25 percent on July 1, 2006, and increasing by 25 percent each year until it reaches 100 percent of the syrup tax paid on July 1, 2009. Effective July 1, 2006.

Motion picture industry B&O tax credit – 2SSB 6558 (chapter 247, Laws of 2006) establishes the Motion Picture Competitiveness Program (MPCP) to encourage filming of movies, television programs, and commercials in Washington. The bill also provides a B&O tax credit for businesses that make contributions to the MPCP and file their taxes electronically. An annual $3.5 million cap applies. Effective June 7, 2006; expires July 1, 2011.

Professional employer organizations (PEOs) – SSB 6671 (chapter 301, Laws of 2006) provides that income derived by a PEO for providing professional employer services is subject to the Service and Other Activities B&O tax classification. A deduction is allowed for amounts received by a PEO from a client that represent the actual cost of wages, benefits, and certain other payments made to or on behalf of covered employees. Effective July 1, 2006.

Reduced B&O tax rates for timber activities – SSB 6874 (chapter 300, Laws of 2006) provides a reduced B&O tax rate for timber extracting or extracting timber for hire; manufacturing or processing for hire timber into timber products or wood products; manufacturing or processing for hire timber products into other timber products or wood products; selling at wholesale timber extracted by the seller; and selling at wholesale timber products or wood products manufactured by the seller from timber or other timber products. Partially offsetting the rate reduction is a new surcharge that takes effect July 1, 2007. Rate reduction effective July 1, 2006; surcharge effective July 1, 2007.

Tax Incentive Programs

Vegetable seed conditioning – SHB 1523 (chapter 142, Laws of 2006) broadens the rural county sales and use tax deferral/exemption program for manufacturers to include conditioning of vegetable seed. This deferral exempts the construction and renovation of a building or acquisition of new machinery or equipment that is used for conditioning vegetable seeds in a rural county or distressed area. Effective July 1, 2006.

Tax incentives for aluminum smelters extended – HB 2348 (chapter 182, Laws of 2006) extends to January 1, 2012, the package of tax incentives for aluminum smelters. The incentives (a reduced B&O tax rate, B&O tax credits, and sales and use tax exemptions) were originally scheduled to expire January 1, 2007. Effective June 7, 2006.

Aerospace incentives expanded; special B&O tax rate for FAR part 145 repair stations extended – HB 2466 (chapter 177, Laws of 2006) expands the B&O tax credit for aerospace preproduction development expenditures and the sales/use tax exemption for computer equipment used to develop, design, and engineer commercial airplanes to non-manufacturing businesses in the aerospace industry. In addition, the B&O tax rate for FAR part 145 repair stations is changed to .002904 from .00275 percent and is extended to December 31, 2012. The .00275 rate was previously scheduled to expire after June 30, 2006. The bill also modifies the B&O tax credit for property taxes paid on property used in manufacturing commercial airplanes and airplane components to include certain leasehold excise taxes paid. Effective July 1, 2006; B&O tax credit for certain leasehold excise taxes effective January 1, 2007.

Biotechnology manufacturer tax incentives – SHB 2640 (chapter 178, Laws of 2006) creates a sales and use tax deferral/waiver program for investments in construction or renovation of structures, or machinery and equipment used for biotechnology product or medical device manufacturing. An application for the deferral must be received and approved by the Department before construction is initiated. Effective July 1, 2006.

Contingent tax incentives for semiconductor material manufacturers - SHB 3190 (chapter 84, Laws of 2006) provides that persons who manufacture or process for hire silicon crystals, silicon ingots, raw polished semiconductor wafers, or compound semiconductor wafers may be eligible for a reduced B&O tax rate of .00275 and a sales and use tax exemption for gases and chemicals used in the manufacturing process.

Effective June 7, 2006.
These tax incentives are contingent on the siting, expansion or renovation, and commercial operation of a semiconductor fabrication facility in Washington with a combined investment of at least $350 million by a single firm. Eligible businesses must file electronically with the Department of Revenue and must also file an Annual Report detailing employee information by March 31 of each year. Effective June 7, 2006.

  - Provides B&O tax exemptions for manufacturing dairy products and manufacturing certain seafood products, including wholesale sales of such products to purchasers who transport the goods out-of-state. Effective July 1, 2006; expires July 1, 2012.
  - Expands the sales/use tax deferral/exemption program for fruit and vegetable processors to include processors of dairy products and certain seafood products. Effective July 1, 2007.
  - Expands the warehouse remittance program to include cold storage warehouses of at least 25,000 square feet that are used to store dairy and seafood products. Cold storage warehouses used to store fruit or vegetables, dairy products, and seafood products will not longer be included in the warehouse remittance program as of July 1, 2012. Effective July 1, 2007.
  - Establishes a specific B&O tax rate of .00484 for persons inspecting, testing, labeling, or storing canned salmon owned by another person. Effective July 1, 2006.
  - Provides an expiration date of July 1, 2012, for the B&O tax exemption (RCW 82.04.4266) for manufacturing fresh fruit and vegetables and for wholesale sales of these products to purchasers who transport the products out-of-state. Effective July 1, 2006.

Other Legislation
* Public utility tax credit for billing discounts – HB 2644 (chapter 213, Laws of 2006) increases the statewide cap to $5.5 million from $2.5 million for fiscal year 2007 in computing a public utility tax base credit. Light and power businesses and gas distribution businesses providing billing discounts and qualifying contributions may be eligible for this credit. Effective July 1, 2006.

Hospital benefit zones – SHB 2670 (chapter 111, Laws of 2006) allows a local government to establish a hospital benefit zone and finance certain public improvements within that zone using revenue generated from a new sales/use tax that is credited against the state sales/use tax. The revenue received from the tax each fiscal year is limited and must be used to repay the principal and interest on bonds issued to finance the public improvements within the hospital benefit zone. Effective July 1, 2006.

Local infrastructure financing tool – E2SHB 2673 (chapter 181, Laws of 2006) allows a local government to create a revenue development area from which annual increases in revenues from local sales, use, and property taxes are measured. The revenue increases are used to pay principal and interest on general obligation or revenue bonds issued to finance public improvements within the development area. State matching funds may also be received through imposition of a local sales/use tax that is credited against the state sales/use tax. Effective July 1, 2006; expires June 30, 2039.

Extension of petroleum products tax – SHB 2678 (chapter 276, Laws of 2006) extends the expiration date for the pollution liability insurance program to June 1, 2013. Effective June 7, 2006.

Property tax exemption for nonprofit entities – SB 6280 (chapter 319, Laws of 2006) eliminates the requirement that property be irrevocably dedicated to the exempt purpose of the nonprofit organization. The property must still be used for the exempt purpose of the nonprofit organization, but conditions such as reversionary clauses on deeds will no longer disqualify the property from exemption. Effective June 7, 2006.


* Direct shipments from out-of-state wineries – ESB 6537 (chapter 49, Laws of 2006) allows out-of-state wineries to ship an unlimited amount of wine directly to consumers in Washington if the winery has obtained a wine shipper’s permit and is registered with the Department of Revenue. Out-of-state wineries shipping to Washington consumers must collect and remit Washington sales or use tax on such sales. Effective July 1, 2006.


* Public transit fare income - SB 6826 (chapter 336, Laws of 2006) provides a deduction from the urban and motor transportation classification of the public utility tax for amounts derived from fees or charges for transit services by a public transportation agency. A “public transportation agency” means urban public transportation systems as defined in RCW 47.04.082 and municipalities as defined in RCW 35.58.272. Effective June 7, 2006.
New

Sales tax on extended service warranties and an additional liter tax on spirits will remain in effect while a case challenging the validity of these taxes winds its way through the appellate courts.

An appeal of a Snohomish County Superior Court ruling that these two tax increases could not be imposed without a vote of the people is pending. The State Supreme Court has issued a stay of the lower court’s ruling while an appeal of the case continues through the courts. A final decision is not expected until late this year or early next year.

The Department of Revenue will be notifying retailers about the case and educating consumers about their refund options, should the lower court’s ruling be upheld. The Department recommends that purchasers of extended service warranties and hard liquor keep their receipts to facilitate obtaining any refunds that may become due. The Department will provide instructions on how to obtain a refund if a final decision ultimately finds that the taxes are invalid. The Liquor Control Board is developing its own refund procedures.

Disputed Taxes Continue in Effect Pending Court Decision

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Question & Answer

Q I am renting a portable toilet unit. The company providing the portable toilet is not charging sales tax on the rental – is this correct?

A Yes. Our long-standing position is that “rentals” of portable chemical toilets are not rentals of tangible personal property. Typically, the owner of the unit replaces the toilet paper, removes waste from the tank, recharges the chemicals, cleans, and disinfects. This amounts to more than merely renting the unit to a customer.

Businesses providing portable toilet units must report their gross income from providing such services under the Service and Other Activities B&O tax classification. The charge is not subject to sales tax or retailing B&O tax.

When a business buys portable toilets to rent to consumers, sales tax is due on the purchase because the business is not reselling (“renting”) them. If sales tax is not paid, use tax is due. The same is true for purchases of chemicals, toilet paper, and other supplies.

Updated Real Estate Excise Tax Rules

Effective December 17, 2005, we adopted chapter 458-61A Washington Administrative Code (WAC) and repealed 458-61 (WAC). The updated WAC provides tax reporting information to people who sell real estate in Washington or who transfer a controlling interest in an entity that owns real estate in this state. The new rules update and clarify existing information, provide a number of examples, and explain Department practices in administering the real estate excise tax, including:

• who is liable for the tax
• how and when the tax is paid
• which transactions are taxable
• what exemptions are available
• recordkeeping requirements

We consolidated the previous 53 rules down to 38 and renumbered the rules within the number series spanning from 100 to 300. The “100 series” rules address the taxability of transfers; “200 series” rules discuss tax exemptions; and “300 series” rules discuss administrative procedures.

With summer here, we get many questions on the tax applications for recreational and sporting activities and fees. Charges for amusement and recreational activities, such as batting cages, bowling, basketball, rock climbing, swimming, and soccer are subject to sales tax. The guidelines below will help you determine whether or not certain fees are subject to retail sales tax. For purposes of these guidelines, the following definitions apply:

Participation and facilities fee: a fee paid for the right to participate in a sport or for the use of a facility or field.

League fee: a fee that allows a person or team the right to join a group of other sports teams, with the intention that they will compete among themselves.

Participation fees paid for the right to participate in the sport or facilities fees paid to use an amusement or recreational facility (such as a baseball or soccer field, gym, or pool) are subject to retail sales tax.

League fees paid for the right to join in a group of sports teams and compete against them are not subject to retail sales tax. Instead, this income is subject to B&O tax under the Service and Other Activities classification.

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It’s that time of year...
Taxpayer Rights and Responsibilities

The Taxpayer Rights and Responsibilities law (chapter 82.32A RCW) provides the basic principles that form the Department’s relationship with taxpayers – voluntary compliance, fairness, and uniform application.

Whether you are a business owner, homeowner, nonprofit organization, or individual consumer, you are also a Washington State taxpayer with specific rights and responsibilities. We encourage you to become familiar with your rights and responsibilities.

Taxpayer rights

Washington taxpayers have the right to:
- A simple and prompt administrative process for tax refunds and credits
- Timely, fair, and equitable treatment with dignity and respect
- Accurate written information on reporting instruction appeal procedures, refund claims, and reasons for assessment
- Public hearing on proposed rules
- Review and appeal assessments, business registration revocations, and adverse rulings

Taxpayer responsibilities

Washington taxpayers have the responsibility to:
- Register your business with the Department of Revenue
- Know your tax reporting obligations and seek instruction when you are uncertain
- Keep accurate and complete business records
- File returns and pay taxes in a timely manner
- Ensure the accuracy of the information entered on your tax returns
- Substantiate claims for refund
- Notify the Department of Revenue and pay taxes promptly when closing a business

Special Notices

We recently issued the following Special Notices. These notices discuss current issues as well as changes resulting from new legislation. They are available online by visiting http://dor.wa.gov and clicking on “Special Notices” under Quick Clicks. You may also call 1-800-647-7706 to have a copy sent to you.

Apportionment – Approved Methods – issued December 21, 2005.


Hospital Safe Patient Handling B&O Tax Credit – issued May 18, 2006.


Rule Making

Following is a list of the Department of Revenue’s recent tax rule adoptions and repeals. For specific information on the rule changes, to obtain a copy of a newly adopted rule, or for more information regarding how these rules may affect you, contact us online at http://dor.wa.gov and click on Laws and Rules, then one of the bullets under “Rule Making.” You may also call our Telephone Information Center at 1-800-647-7706.

Excise tax rule (WAC) adopted or amended:
458-20-17803 Use tax on promotional material. Effective March 27, 2006.

Property tax rule (WAC) adopted or amended:
458-19-070 Procedure to adjust consolidated levy rate for taxing districts when the statutory aggregate dollar rate limit is exceeded. Effective January 22, 2006.

Forest tax rule (WAC) adopted or amended:

Real estate excise tax chapter adopted:
Chapter 458-61A WAC Effective December 17, 2005.

Real estate excise tax chapter repealed:
Chapter 458-61 WAC Effective December 17, 2005.

Leasehold excise tax rule (WAC) adopted or amended:

Estate tax rules (WAC) adopted or amended:
Chapter 458-57 WAC Estate and transfer tax. Six current rules were amended to reflect a Supreme Court decision ruling. Seven new rules were adopted to implement the new Washington estate tax that became effective May 17, 2005. Effective April 9, 2006

Changes to interpretive/policy statements
We issue interpretive and policy statements, such as Excise Tax Advisories and Property Tax Advisories, to explain how tax applies to a specific set of facts or to address specific issues. These statements are issued or cancelled periodically based primarily on changes in the tax law. Statements that are cancelled can no longer be relied upon for tax application.

Excise tax advisory adopted:
2028.04.93 Foreign trade zones. Effective February 1, 2006.
2029.04.245 Taxation of network telephone service used to provide Internet access services. Effective February 24, 2006.

Excise tax advisories (ETAs) cancelled:
89-005 A statement of purpose and intent with respect to the taxability of newspapers and definition of a newspaper. Cancelled effective December 22, 2005.
269.04.194 Out-of-state engineering firm performing services in this state which are incidental to those performed by its out-of-state office. Cancelled effective January 30, 2006.
270.04.194 Interest income derived from the extension of credit to a party in another state by a Washington taxpayer with business situs in both states. Cancelled effective January 30, 2006.
324.04.194/224 Application of business and occupation tax to royalty income earned through grant of patent privileges. Cancelled effective January 30, 2006.
Property tax advisories (PTAs) issued (all effective January 11, 2006):

11.1.2006  Application of the Federal Servicemembers’ Civil Relief Act and the Washington Servicemembers’ Civil Relief Act to property tax administration.

14.0.2006  Transfer of land classified under chapter 84.33 RCW or chapter 84.34 RCW is transferred in trust to the United States.

Property tax advisories cancelled

You may be richer than you think!

Unclaimed property E-claim goes live
We have an exciting new feature that allows you to search for unclaimed property (UCP) and file the claims via our web site.

The new process is simple
- Go directly to ClaimYourCash.org to access the UCP home page. (It is available at http://dor.wa.gov as well.)
- The UCP database search tool will locate any property the state is holding in your name.
- The system automatically directs you to our secure Online Services area and guides you through a series of easy steps to claim your property.

One in seven Washington residents has unclaimed property in our database. For more information on UCP, visit our web site or call us at 1-800-435-2429.

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Simplify your life! More than a dozen state agencies have come together to provide you with a single, easy-to-use location linking the resources you need to do business in Washington State.

Go to http://business.wa.gov and you’re connected to a wide variety of necessary tools and information. Doing Business at Access Washington is a web site designed exclusively to make it easier and more efficient for you to accomplish licensing, permitting, paying taxes and more.

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Free workshops
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Looking for a tax workshop in your area?
Check out our web site! We offer workshops free of charge throughout the state. To view the updated schedule or for more information, visit our web site at http://dor.wa.gov, click on Doing Business, then select “Workshops” from the menu on the left side.

Once you find the workshop that’s right for you, register online or call us to sign up.

See you there!

Business Outreach Workshops
These workshops provide a basic overview of taxes that apply to various business activities in Washington. Check our web site for dates and times.

Apportionment Workshop
This workshop covers the approved apportionment methods under new WAC 458-20-94, including: when apportionment is appropriate, separate accounting methods, cost basis methods, and representative third party costs.

7/13/06  Vancouver  10:00 a.m. - 12:00 p.m.
Clark College, Gaiser Hall/Central Conference Room, 800 E McLoughlin Boulevard – To register call 1-800-647-7706

Construction Workshop
This workshop provides tax information specific to the construction industry, including: custom and speculative construction, government contracting, public road construction, and construction on Indian land.

7/13/06  Vancouver  1:30 - 3:30 p.m.
Clark College Gaiser Hall/Central Conference Room800 E McLoughlin Boulevard – To register call -800-647-7706

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