

Summary of differences between WAC 458-20-14601 and emergency rule WAC 458-20-19404.

- While WAC 458-20-14601 provided a single cross reference to WAC 458-20-193, WAC 458-20-19404 includes additional cross references to WAC 458-20-194, 14601, 19401, 19402, and 19403.
- WAC 458-20-19404 moves the definition of apportionable income to subsection 2(a) (away from other definitions).
- WAC 458-20-19404(2)(b) differs from Rule 14601 by deleting references to the property and payroll factors which do not apply under Chapter 23, Laws of 2010, §105.
- WAC 458-20-19404(2)(c) differs from Rule 14601 by explaining the reconciliation process as described in Chapter 23, Laws of 2010, 1st Special session, §105(4) and makes a reference to WAC 458-20-19402 for an example of applying the reconciliation.
- WAC 458-20-19404(2)(d) explains the application of interest and penalties to the reconciliation as specified in Chapter 23, Laws of 2010, 1st Special session, §105(4).
- WAC 458-20-19404(2)(e) is duplicative of subsections 2(c) and (d) and will be removed.
- WAC 458-20-19404(2)(f) provides for alternative methods of apportionment and we removed the exclusion of a factor because only one factor applies under current law.
- WAC 458-20-19404(3) provides definitions. We have deleted definitions of “compensation,” “Gross rents,” and “principal base of operation” because these refer to property and payroll factors that do not apply under the new law. Additionally, we removed from the definition of a financial institution businesses that are not actually banks, because they are not subject to the same regulatory requirements as banks. We also removed entities that are owned or controlled by financial institutions because Washington is a separate entity state. We added a definition of service and other activities income.
- The definition of “taxable in another state” was modified to be consistent with Chapter 23, Laws of 2010, 1st Special session, §108.
- The definition of “gross income of the business,” “Gross income,” and “income” was amended to reflect that financial institutions determine gains from trading on an annualized basis per Chapter 23, Laws of 2010, 1st Special session, §109(2) and that transactions between financial institutions and affiliates that are required by §§ 23A or 23B of the Federal Reserve Act to be at arms length are exempt from B&O tax per Chapter 23, Laws of 2010, 1st Special session, §110.
- WAC 458-20-19404 defines the receipts factor in subsection 4 as did Rule 14601. The differences in Rule 19404 are:
 - We removed references to receipts from activities that are not subject business and occupation under the service and other activities classification. Specifically, receipts from the lease of real or personal property.
 - We added language to the receipts from loans not secured by real property to acknowledge Chapter 23, Laws of 2010, 1st Special session, §112 concerning commercial aircraft, which allows for a deduction of interest and fees when the lender is not physically present in Washington.
 - Under the receipts from trading assets we removed a reference to the property factor because that factor is not relevant under current law.
- WAC 458-20-19404 deletes the references and discussion of property and payroll factors that applied under Rule 14601.