



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
(Implements RCW 34.05.360)

Agency: Department of Revenue

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** The Department has amended WAC 458-20-127 (Rule 127) to reflect the following recent legislative changes:

- ESHB 2075 (chapter 535, Laws of 2009) explains the application of the retail sales tax and use tax on the sale of magazines and periodicals that are transferred to the buyer electronically;
- SB 6173 (chapter 563, Laws of 2009) changes the use of a resale certificate to a resellers permit to document a wholesale sale.

Rule 127 has also been amended to recognize RCW 82.08.02535, which provides a retail sales tax exemption for magazine or periodical sales for certain fundraising purposes. Editing changes for readability purposes were also made.

**Citation of existing rules affected by this order:**

- Repealed:
- Amended: WAC 458-20-127 *Sales of newspapers, magazines and periodicals.*
- Suspended:

**Statutory authority for adoption:** RCW 82.32.300 and 82.01.060(2)

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 10-16-139 on August 4, 2010.  
Describe any changes other than editing from proposed to adopted version: **None**

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **An analysis was not prepared.**

**Date adopted:** October 13, 2010

**NAME (TYPE OR PRINT)**  
Alan R. Lynn

**SIGNATURE**

**TITLE**  
Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: October 13, 2010**  
**TIME: 2:36 PM**  
**WSR 10-21-043**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	<u>1</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	<u>1</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

This rule was adopted on October 13, 2010 and becomes effective November 13, 2010. It may be used to determine tax liability on and after the effective date, until the codified version is available from the code reviser's office.

AMENDATORY SECTION (Amending WSR 89-21-001, filed 10/5/89, effective 11/5/89)

**WAC 458-20-127 Sales of newspapers, magazines and periodicals.** (1) (~~Retail sales tax.~~) **Introduction.** This section explains the application of the business and occupation (B&O) tax, retail sales tax, and use tax to sales and/or use of newspapers, magazines, and periodicals. The tax reporting information in the section is limited to persons that purchase and resell these publications. The department of revenue (department) has adopted other sections providing tax reporting information to persons printing and/or publishing these publications and other printed materials.

• Persons printing and/or publishing newspapers, magazines, and periodicals should also refer to WAC 458-20-143.

• For information regarding the printing industry in general, see WAC 458-20-144.

• Persons duplicating printed materials for others should also refer to WAC 458-20-141.

• For information regarding potential litter tax liability, see WAC 458-20-243.

(2) **General tax application.** This subsection explains the B&O tax and retail sales tax responsibilities of persons selling newspapers, magazines, and periodicals to consumers, when the seller is not also the printer or publisher of the publication. Refer to subsection (4) of this section for information about tax reporting responsibilities of persons selling through organizers, captains, or others selling from house to house.

Where subscriptions or renewals of subscriptions are mailed directly by purchasers to publishers outside the state, the guidelines contained in WAC 458-20-193 and 458-20-221 apply to the obligation of sellers to collect retail sales or use tax.

(a) **Sales of printed magazines and periodicals.** Sales of magazines and periodicals to (~~the reading public~~) consumers by persons operating (~~news stands~~) newsstands, book stores, (~~cigar~~) department stores, drug stores and the like are sales at retail and are subject to the retailing B&O tax and retail sales tax. (~~Sales to newsstands or stores which are sales for resale are not subject to the retail sales tax.~~) Refer to WAC 458-20-143 for the definition of "periodical or magazine."

(b) **Magazines and periodicals sold as digital products.** Sales of magazines and periodicals that are transferred electronically to the end user are subject to the retailing B&O

tax and retail sales tax regardless of how they are accessed. For more information on the application of tax on digital products, refer to RCW 82.04.050, 82.04.192, and 82.04.257.

(c) Sales of newspapers. Sales of printed newspapers to consumers by persons operating newsstands, book stores, department stores, drug stores and the like are sales at retail and are subject to the retailing B&O tax. Sales of newspapers are specifically exempt from the retail sales tax per RCW 82.08.0253. Refer to WAC 458-20-143 for the definition of "newspaper."

(3) Retail sales tax exemptions. The retail sales tax does not apply to the following:

(a) Newspapers (refer to WAC 458-20-143 for a definition of "newspaper"); and

(b) Subscription sales of magazines and periodicals, including those transferred electronically to the buyer, if these sales are for the purpose of fund-raising by:

- Educational institutions as defined in RCW 82.04.170; or
- Nonprofit organizations engaged in activities primarily for the benefit of boys and girls nineteen years of age and younger. (RCW 82.08.0253.)

(4) Sales by distributors. When magazines or periodicals are distributed to the final purchaser by a news company or distributor who effects such distribution through organizers, captains, or others selling from house to house or upon the streets, the news company or distributor is ~~((the one))~~ responsible for the collection and payment of the retail sales tax.

(a) Such news companies or distributors ~~((shall))~~ must collect from those selling the magazines or periodicals the retail sales tax upon the gross retail selling price of all magazines and periodicals taken by such persons.

~~((Registration certificates))~~ (b) Tax registration endorsements are not required for organizers, captains, or other persons selling magazines or other periodicals ~~((under such circumstances))~~ if they meet the conditions of WAC 458-20-101 (2)(a). ~~((Branch certificates))~~ Separate registration and license documents will be issued to the news company or magazine distributor for each of the local stations operated by such company. Such registration and license documents will reflect the same tax reporting account number as the news company or magazine distributor. For more information, refer to WAC 458-20-101(10).

~~((2) Where subscriptions or renewals of subscriptions are mailed directly by purchasers to publishers outside the state, the guidelines contained in WAC 458 20 193B and 458 20 221 apply to the obligation of publishers to collect sales or use tax.~~

~~This rule does not apply to the sale of newspapers. The law expressly exempts the sale of newspapers from the retail~~

~~sales tax. (RCW 82.08.0253.) See WAC 458-20-143 for the definition of "newspaper."~~

~~(3) Use tax.)~~ (5) **Buyer's responsibility to remit deferred sales or use tax.** Where no retail sales tax is paid upon the purchase of, or subscription to, a magazine or periodical, the ~~((use tax is subsequently payable upon the use of the magazine or periodical in this state by the purchaser))~~ buyer or subscriber must remit the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department unless specifically exempt by law.

Deferred sales or use tax should be reported on the use tax line of the buyer's excise tax return. For detailed information about use tax, refer to WAC 458-20-178 (Use tax).