



# RULE-MAKING ORDER

## CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Revenue

- Permanent Rule  
 Emergency Rule

**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)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) July 1, 2005

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

- Yes  No If Yes, explain: **Emergency rule findings are required; see below.**

**Purpose:** See attachment

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

Amended: WAC 458-20-141 Duplicating activities and mailing bureaus.  
WAC 458-20-144 Printing industry.  
WAC 458-20-17803 Use tax on promotional material.

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

**Other authority :**

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

Adopted under notice filed as WSR \_\_\_\_\_ on \_\_\_\_\_ (date).

Describe any changes other than editing from proposed to adopted version:

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.**

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.  
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: **An emergency adoption of revised Rules 141, 144, and 17803 is necessary because permanent rules cannot be adopted before the July 1, 2005 effective date. This rule action will provide needed tax information to taxpayers and department staff about the seller's and buyer's tax-reporting responsibilities relative to delivery costs for direct mail.**

**Date adopted:**

**NAME (TYPE OR PRINT)**

Janis P. Bianchi

**SIGNATURE**

**TITLE** Manager

Interpretations and Technical Advice Unit

**CODE REVISER USE ONLY**

**Filed: June 30, 2005**

**Time: 3:22 p.m.**

**WSR: 05-14-091**

**This information was input by DOR.**

**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>3</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>3</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	<u>3</u>	Repealed	_____

**WAC 458-20-141 Duplicating activities and mailing bureaus.**  
**WAC 458-20-144 Printing industry.**  
**WAC 458-20-17803 Use tax on promotional material.**

**Purpose:**

**Background:**

WAC 458-20-141 explains the B&O, retail sales, and use tax reporting responsibilities of persons who engage in duplicating activities or who provide mailing bureau services in Washington. WAC 458-20-144 explains the B&O and retail sales tax reporting responsibilities of persons engaged in printing activities. Both rules were revised in January 2005, each with an effective date of July 1, 2005.

One of the major changes in that revision was the removal of language stating that a deduction from the measure of tax for both B&O tax and the retail sales tax was available where a mailing bureau purchases postage for a customer and charges that customer for the postage. This revision explained that amounts received from a customer for postage costs incurred by the seller are, under the law, included in the measures of both taxes. The change to Rule 141 also identified circumstances under which postage charges are not included in the measure of tax because the charges qualify as advances or reimbursements.

WAC 458-20-17803 explains the use tax reporting responsibilities of persons who distribute or cause to be distributed tangible personal property promoting the sale of products or services are subject to use tax on the value of the property. While the January 2005 rule action had a July 1, 2005 effective date, the rule explains a use tax responsibility that resulted from provisions of chapter 367, Laws of 2002 that became effective June 1, 2002.

**Current rule making action:**

Chapter 514, Laws of 2005, provides a B&O tax deduction and retail sales/use tax exemption for delivery charges made for the delivery of direct mail, if the charges are separately stated. These provisions of chapter 514 became effective May 16, 2005, and supercede the instructions regarding charges for postage costs in these rules.

The Department is adopting revisions to Rules 141, 144, and 17803 on an emergency basis to reflect this legislative change. The Department plans to proceed with rule making for permanent revisions to these rules.