



# 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) \_\_\_\_\_

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

Yes       No      If Yes, explain:

**Purpose:** Effective July 1, 2008, RCW 82.32.730 and RCW 82.14.490 require sellers collecting local retail sales tax in Washington to implement new local retail sales tax sourcing rules. This rule clarifies the local sourcing rules applicable to the retail sales of tangible personal property, retail services, extended warranties, and leases of tangible personal property by amending WAC 458-20-145.

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

Repealed:  
Amended: WAC 458-20-145  
Suspended:

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

**Other authority :**

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

Adopted under notice filed as WSR 08-06-094 on March 05, 2008 (date).

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

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:

**Date adopted:** 5/30/2008

**NAME (TYPE OR PRINT)**

Janis P. Bianchi

**SIGNATURE**

**TITLE** Assistant Director,  
Interpretations & Technical Advice Division

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** May 30, 2008

**TIME:** 9:23 AM

**WSR 08-12-035**

**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	<u>1</u>	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____



STATE OF WASHINGTON  
DEPARTMENT OF REVENUE

Attachment to CR-103 Rulemaking Order  
for  
WAC 458-20-145 Local sales and use tax

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

1. WAC 458-20-145(1)(a)(i) - Edits were made to the two sentences as follows:
  - “The “Quarterly Local Sales & Use Tax Flyer” is edited to read: “Local Sales and Use Tax Flyer.”. This edit will enable taxpayers reading Rule 145 to more easily find the Department’s “Local Sales & Use Tax Flyer” located on the Department’s web site.
  - The word “all” is replaced with “**select**” in the sentence that reads: “This publication is updated every quarter and is mailed to ~~all~~ **select** taxpayers reporting on paper returns.” This edit clarifies that the “Local Sales & Use Tax Flyer” is not mailed to all taxpayers, consistent with current Department practice.
2. WAC 458-20-145(2)(a)(ii)(B)(1) – the word “**sale of**” is inserted into the following sentence that reads: “The painting firm must source the **sale of** painting services to Brett's Tacoma home location.” This edit clarifies that the new sourcing rules are sourcing the “sale” of services, consistent with the language of RCW 82.32.730.
3. WAC 458-20-145(2)(a)(ii)(D)(1) – the verb “delivered” is replaced with the verb “received” in the sentence that reads: “The mattress was ~~delivered~~ **received** outside of Washington and is not subject to Washington state and local sales tax.” This edit was made so that the language in Rule 145 as adopted is consistent with the language in RCW 82.32.730.
4. WAC 458-20-145(2)(a)(v)(B) - the following edits were made to the sentence that reads: “If any of the sourcing Rules 1 through 4 do not apply, the seller must source sales of electronically delivered prewritten computer software to the address **location** from which the computer software was first ~~made~~ available for transmission by the seller. Locations that merely provide for the transfer of computer software, ~~and~~ are not ~~the~~ address **locations** from which ~~the seller made~~ the computer software is first available for transmission, ~~will not be used~~. These edits are intended to make the language more readable and to more precisely track the language of RCW 82.32.730(1)(e).
5. WAC 458-20-145(2)(b)(v)(D)(1) - The following changes were made in the sentence that reads: “The seller first made the prewritten software available for transmission ~~from a server housed~~ at its Tacoma location. The seller will source the sale to that Tacoma location from which the prewritten software was first **available for transmission**, ~~transmitted~~. This result will not change if the software is routed from ~~the~~ a Tacoma server through a second server (either operated by the seller or some third party) located outside of the Tacoma location.” These changes are intended to prevent confusion identified in public comment by making the language of Rule 145 as adopted more precisely track the statutory language of RCW 82.32.730(1)(e).

6. WAC 458-20-145(2)(b)(v)(D)(2)- The following changes were made in the sentence that reads:  
“Assume the facts in Example (1) directly above, except that Rebecca's order is submitted to the Tacoma location and the ~~transmission of the prewritten software originates~~ **is first available for transmission** from a Bellevue location. ~~The seller first made available for transmission the prewritten software from a server housed at its Bellevue location.~~” These changes are intended to prevent confusion raised in public comment by making the language Rule 145 as adopted more precisely track the statutory language of RCW 82.32.730(1)(e).
7. WAC 458-20-145(2)(c) - The phrase “**as a retail sale**” will be inserted at the end of the following sentences:
  - WAC 458-20-145(2)(c)(i) - “If you are leasing transportation equipment, you must source the lease payments attributable to that transportation equipment under sourcing Rules 1 through 5 above **as a retail sale.**” This edit adds existing clarifying statutory language from RCW 82.32.730(4).
  - WAC 458-20-145(2)(c)(ii)(B) - “If the lease does not require recurring periodic payments, you must source the single lease payment under sourcing Rules 1 through 5 above **as a retail sale.**” This change adds existing clarifying statutory language from RCW 82.32.730(3)(b).
  - WAC 458-20-145(2)(c)(iii)(A) - “If the lease requires recurring periodic payments, you must source the first periodic payment on that lease under sourcing Rules 1 through 5 **as a retail sale.**” This edit merely adds existing clarifying statutory language from RCW 82.32.730(2)(a).
  - WAC 458-20-145(2)(c)(iii)(B) - “If the lease does not require recurring periodic payments, you must source the single payment under sourcing Rules 1 through 5 **as a retail sale.**” This edit merely adds existing clarifying statutory language from RCW 82.32.730(2)(b).
8. WAC 458-20-145(4)- the word “**is**” is replaced with “**may be**” in the sentence that reads: “Where a seller does not have an obligation to collect Washington sales tax, the tangible personal property or service sold by that person **is may be** subject to use tax under chapter 82.12 RCW *et seq.*” This edit clarifies that use tax is not applicable to all items taxable as retail sales.
9. Several edits were made to Rule 145 as adopted due to the amendment of RCW 82.32.730 by Senate Bill 6799, Chapter 324, Laws of 2008. These changes are as follows:
  - WAC 458-20-145(2) - the bolded language was added to the sentence that reads: “Subsection (2)(b) of this section provides special sourcing rules related to **certain “florist sales”** and the sale of watercraft; mobile, modular, and manufactured homes; and motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment.
  - WAC 458-20-145 (1)(b)(i) – the letter “**c**” is replaced with “**d**” in the sentence that reads: “See RCW 82.32.730 (8)(d)~~(e).~~”
  - WAC 458-20-145(1)(b)(viii)(D)- the letter “**d**” is replaced with “**e**” in the sentence that reads: “RCW 82.32.730 (8) (e)~~(d).~~”
  - WAC 458-20-145(2)(b) – the bolded language was added to the sentence that reads: “Special sourcing rule: **Florist sales and sales Sales** of watercraft; modular, mobile, and manufactured homes; and motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment. **If you are a “florist” making sales or** you are making a retail sale of watercraft; modular, mobile, or manufactured homes; or motor vehicles, trailers, semi-trailers, and aircraft that do not qualify as transportation equipment (excluding leases and rentals), you must source the sale to the location at or from which delivery is made. **For information concerning “florist sales”, who qualifies as a “florist”, and the related specific sourcing rules see RCW 82.32.730(6)(d) and RCW 82.32.730(8)(c) as amended by Senate Bill 6799, Chapter 324, Laws of 2008.**