



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)
Do NOT use for expedited rule making

Agency: Department of Revenue

Preproposal Statement of Inquiry was filed as WSR 04-13-092; or
 Expedited Rule Making--Proposed notice was filed as WSR ; or
 Proposal is exempt under RCW 34.05.310(4).

Original Notice
 Supplemental Notice to WSR
 Continuance of WSR

Title of rule and other identifying information:

WAC 458-20-168 Hospitals, (~~medical care facilities~~) nursing homes, boarding homes, adult family homes, and similar health care facilities.

Hearing location(s):

Capitol Plaza Building
4th Floor – L&P Large Conference Room
1025 Union Avenue SE
Olympia, Washington 98504

Date: April 6, 2005 Time: 9:30am

Submit written comments to:

Name: Allan C. Lau
Address: Post Office Box 47453
Olympia, Washington
98504-7453
e-mail AllanL@dor.wa.gov
fax (360) 586-5543
by April 6, 2005

Assistance for persons with disabilities: Contact Sandy Davis no later than 10 days before the hearing date.
TTY 1-800-451-7985 or (360) 725-7499

Date of intended adoption: April 13, 2005
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

See attachment

Reasons supporting proposal: To update the rule to reflect legislative changes and to clarify the application of taxes.

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

Statute being implemented: To the extent the following apply to health care providers: RCW 82.04.260, 82.04.290, 82.04.2908, 82.04.326, 82.04.4282, 82.04.327, 82.04.4289, 82.04.4297, 82.04.4311, 82.04.324, and 82.71.020.

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No
If yes, CITATION:

CODE REVISER USE ONLY

Filed: February 22, 2005
Time: 2:50 p.m.
WSR: 05-06-019

Date

Name

Alan R. Lynn

Signature

Title

Rules Coordinator

The above information was input by DOR.

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: Department of Revenue

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Allan C. Lau	1025 Union Ave. SE. Ste #544, Olympia ,Wa	(360) 570-6134
Implementation.... Alan R. Lynn	1025 Union Ave. SE. Ste #544, Olympia ,Wa	(360) 570-6125
Enforcement..... Janis P. Bianchi	1025 Union Ave. SE. Ste #544, Olympia ,Wa	(360) 570-6147

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No. Explain why no statement was prepared.

The rule does not impose any new performance requirement or administrative burden on any small business not required by statute.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No: Please explain: The proposed rule is not a significant legislative rule as defined by RCW 34.05.328.



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

WAC 458-20-168 (Hospitals, nursing homes, boarding homes, adult family homes, and similar health care facilities)

Attachment for CR 102 form

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

WAC 458-20-168 (Rule 168) explains the application of business and occupation (B&O), retail sales, and use taxes to persons operating hospitals, nursing homes, boarding homes, adult family homes, and similar health care facilities. The Department proposes to revise Rule 168 to reflect legislative changes and to provide more updated information to taxpayers.

The proposed changes include the following:

- Removing references to hearing aids and ostomic items and directing readers to WAC 458-20-18801 for more information about these items;
- Incorporating information about the taxability of sales of meals by health care facilities from WAC 458-20-119;
- Explaining that nursing homes and licensed boarding homes are not entitled to exempt any income from B&O tax as a "rental of real estate" (*Lacey Nursing Home, Inc. v. Department of Rev.*, 103 Wn. App. 169, 11 P.3d 839 (2000));
- Explaining the tax consequences when a service provider contracts with a hospital to provide medical services at the hospital, such as when a hospital contracts with another person to operate an emergency room facility (*Pilcher v. Department of Rev.*, 112 Wn. App. 428, 49 P.3d 947 (2002));
- Providing additional information about B&O tax deductions and exemptions available to persons operating health care facilities;
- Providing additional guidance for public and nonprofit hospitals in determining what income is subject to the public and nonprofit hospitals B&O tax or the service and other activities B&O tax;
- Addressing the preferential B&O tax rate and a B&O tax deduction provided to licensed boarding homes (chapter 174, Laws of 2004); and
- Addressing the quality maintenance fee imposed on nursing homes under RCW 82.71.020 (chapter 16, Laws of 2003 1st sp. s.).