



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:
This rule explains the application of business and occupation (B&O), retail sales, and use taxes to persons operating hospitals as defined in RCW 70.41.020, nursing homes as defined in RCW 18.51.010, boarding homes as defined in RCW 18.20.020, adult family homes as defined in RCW 70.128.010, and similar health care facilities. The Department is revising this rule to reflect legislative changes and to provide updated and more comprehensive information.

Citation of existing rules affected by this order:
Repealed:
Amended: WAC 458-20-168 Hospitals, (~~medical care facilities~~) nursing homes, boarding homes, adult family homes, and similar health care facilities.
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 05-06-019 on 2/22/05 (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:

Name (type or print)
Janis P. Bianchi

Signature

Title Manager
Interpretations and Technical Advice Unit

CODE REVISER USE ONLY

Filed: June 30, 2005
Time: 3:21 p.m.
WSR: 05-14-090

The above 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:

Federal statute:	New	Amended		Repealed
Federal rules or standards:	New	Amended		Repealed
Recently enacted state statutes:	New	Amended	1	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	1	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:

Negotiated rule making:	New	Amended		Repealed
Pilot rule making:	New	Amended		Repealed
Other alternative rule making:	New	Amended	1	Repealed



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 103 form

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

The following are the changes to the proposed rule WAC 458-20-168.

- The term "directly" is added into subsection (3)(e) of the proposed rule, so that it reads, "A B&O tax deduction is provided... for amounts received directly from the United States, any instrumentality of the United States, the state of Washington, or any municipal corporation or political subdivision of the state of Washington...."
- The term "sales of drugs for human use pursuant to a prescription" replaces the term "sales of prescription drugs as defined in RCW 82.08.0281" in subsection (3)(d) of the proposed rule.
- Subsection (3)(f) of the proposed rule is revised to incorporate SB 5857, Chapter 86, Laws of 2005, which is effective August 1, 2005. This legislation provides a B&O tax deduction to nonprofit community health center or a network of nonprofit community health centers.
- The sentence "Refer to subsection (3)(h) of the rule for B&O tax deductions and exemptions available to boarding homes" is added in subsection (2)(c) of the proposed rule.
- Subsection (3)(h) is added to incorporate provisions of ESHB 2314, Chapter 514, Laws of 2005. This legislation provides that effective July 1, 2005, amounts received by a nonprofit boarding home licensed for providing room and domiciliary care to residents of the boarding home are exempt from B&O tax.
- Subsection (6) is revised to incorporate provisions of ESHB 2314, Chapter 514, Laws of 2005, which provide that quality maintenance fees on nursing homes not exempt from the fee under RCW 74.46.091 expire after July 1, 2011.
- Subsection (4)(c) is added to incorporate provisions of ESHB 2314, Chapter 514, Laws of 2005, which provide that effective July 1, 2006, sales of medical supplies, chemicals, or materials to a comprehensive cancer center are exempt from retail sales and use tax.



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- We have added an explanation in subsection (3)(d) that nursing homes operated by church organizations or by nonprofit corporations that assist alcoholics in recovery and rehabilitation qualify for the B&O tax deduction. Language has also been added to explain that nursing homes and homes for unwed mothers operated by governmental entities, including public hospital districts, do not qualify for the deduction.
- Language has been added to subsection (4)(b) to explain that the sales and use tax exemptions for prepared meals provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW apply to sales of prepared meals to such not-for-profit organizations.
- Subsection (3)(f) is revised to clarify that this B&O tax deduction applies to amounts received directly or through a third party from Medicare, Washington basic health plan, and programs under chapter 70.49 RCW.
- Subsection (3)(b) is revised to explain that B&O tax does not apply to donations received by a public hospital, as long as the donees do not receive any goods, services, or business benefits in return. Language has also been added to explain that a public hospital is not allowed to take a B&O tax deduction on amounts received from a state university for work-study programs or training seminars for doctors, because the university receives business benefits in return, as students receive education and training while enrolling the university's degree programs.