



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Department of Revenue

Subject of possible rule making: WAC 458-20-193 (Rule 193) *Inbound and outbound interstate sales of tangible personal property*

Statutes authorizing the agency to adopt rules on this subject: 82.32.300 and 82.01.060(2)

Reasons why rules on this subject may be needed and what they might accomplish: (see attachment)

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None.

Process for developing new rule (check all that apply):
 Negotiated rule making
 Pilot rule making
 Agency study
 Other (describe) Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. The Department expects to provide a preliminary draft of possible rule changes for viewing and printing on our website at: <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx> on or before August 25, 2014. Written comments on and/or requests for copies of the rule may be directed to:

David Hesford,
Interpretations and Technical Advice Division,
P. O. Box 47453,
Olympia, WA 98504-7453;
e-mail: DavidH@dor.wa.gov;
phone: 360-534-1586.

Public meeting location:
Capitol Plaza Building
4th Floor Large Exec Conference Room
1025 Union Avenue SE
Olympia, Washington

Assistance for persons with disabilities:
Contact Mary Carol LaPalm (360) 725-7499 or Renee Cosare (360) 725-7514 no later than 10 days before the meeting date. For Hearing Impaired please contact us via the Washington Relay Operator at (800) 833-6384.

Call in option can be provided upon request no later than 3 days before the meeting date.

Date: September 15, 2014 **Time:** 10:00 a.m.

Date July 30, 2014
Name (type or print) Dylan Waits
Signature
Title Rules Coordinator

CODE REVISER USE ONLY
<div style="border: 1px solid black; padding: 10px;"> <p style="text-align: center;">OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED</p> <p>DATE: July 30, 2014 TIME: 1:50 PM</p> <p>WSR 14-16-063</p> </div>



STATE OF WASHINGTON

DEPARTMENT OF REVENUE

Attachment for CR101 filing for
WAC 458-20-193

Rule 193 provides guidance on how Washington's B&O tax and retail sales taxes apply to interstate sales of tangible personal property.

The Department is considering amending Rule 193 to reflect current law, and to adopt consistent trailing nexus standards.

Key updates the Department is considering for Rule 193 are:

1. *Dissociation*: Rule 193 currently provides if a taxpayer can prove that its sales in the state are "dissociated" from its local business activity, then those sales are not subject to Washington tax despite the taxpayer's nexus with the state. The Department is considering removing the dissociation concept from the rule.
2. *Trailing nexus*: Rule 193 currently provides that once a taxpayer establishes nexus in Washington, it will continue to have nexus for up to five years even if the taxpayer ceased performing the instate activity which created nexus. Chapter 23, Laws of 2010 1st sp.s., § 102, changed the trailing nexus for B&O tax to one year following the year the taxpayer ceases having nexus with the state. This legislation did not address the trailing nexus period for other excise taxes. The Department is considering adopting a 1-year standard for all excise taxes for uniformity purposes.
3. *Definition of "receipt"*: The Department is considering incorporating the current statutory definition of "receipt," which specifically excludes possession by a shipping company. In addition, the Department explicitly intends to include the special sourcing provisions for sales of commercial airplane parts in RCW 82.04.627.
4. *Drop shipments*: The Department is considering providing clearer and more detailed guidance regarding the tax consequences associated with drop shipment sales.