



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: Part I of Chapter 23, 2010 Laws 1st Special Session (2ESSB 6143) changed the apportionment and nexus requirements for apportionable activities, effective June 1, 2010.

Statutes authorizing the agency to adopt rules on this subject: RCW 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: n/a

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. Please direct comments towards the Emergency Rule drafts (adopted under WSR 10-12-115 available for viewing and printing on our website at: <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>. Written comments on the rules may be directed to: Chris Coffman and Armikka Bryant, Interpretations and Technical Advice Division, P. O. Box 47453, Olympia, WA 98504-7453; e-mail: ChrisC@dor.wa.gov and ArmikkaB@dor.wa.gov.

Public meeting location:

Auditorium
WA State Criminal Justice Training Commission
19010 First Ave South
Burien, Washington 98148

Assistance for persons with disabilities:

Contact Martha Thomas no later than 10 days before the meeting date. TTY 1-800-451-7985 or (360) 725-7497.

Date: June 24, 2010

Time: For WACs 458-20-19401, 19402, 19403 the meeting will start at 9:30 A.M.
For WAC 458-20-19404 the meeting will begin at 1:30 P.M.

Date June 2, 2010

Name (type or print)
Alan R. Lynn

Signature

Title
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 02, 2010
TIME: 11:59 AM

WSR 10-12-128



STATE OF WASHINGTON

DEPARTMENT OF REVENUE

**Attachment for CR101 filing for
WAC 458-20-19401/19402/19403/19404**

Part I of Chapter 23, 2010 Laws 1st Special Session (2ESSB 6143) changed the apportionment and nexus requirements for apportionable activities, effective June 1, 2010. The Department is considering the following new rules to explain how these requirements apply.

WAC 458-20-19401 *Minimum nexus thresholds for apportionable activities* – Washington’s business and occupation (B&O) taxes may be imposed only if a business has substantial nexus with this state. This rule would explain the minimum nexus thresholds for the B&O taxation of businesses engaged in apportionable activities.

WAC 458-20-19402 *Single factor receipts apportionment – Generally* – This rule would explain how gross income earned by businesses engaged in apportionable activities is apportioned. This rule would not apply to the apportionment of income of financial institutions taxable under RCW 82.04.290, which would be addressed in a WAC 458-20-19404, nor that of royalty income earned from granting the right to use intangible property, which would be addressed in WAC 458-20-19403.

WAC 458-20-19403 *Single factor receipts apportionment – Royalties* – This rule would address how gross income from royalties is apportioned when the business receives royalty payments from both within and outside the state.

WAC 458-20-19404 *Financial institutions – Income apportionment* – This rule would address how gross income from engaging in business as a financial institution is apportioned when the financial institution engages in business both within and outside the state.

Interpretations and Technical Advice Division

P O Box 47453 ♦ Olympia, Washington 98504-7453 ♦ Phone (360) 570-6124