

Preliminary draft rule. This draft is provided for discussion purposes only to determine what topics a possible proposed rule might address. This discussion draft is under no circumstances to be used to determine a tax liability and/or eligibility for tax exemptions.

NEW SECTION

(1) WAC 458-20-27002. Taxpayer Relief - Sourcing Compliance - One-Thousand Dollar Credit and No-cost Certified Service Provider Services. (1) Introduction. RCW 82.32.760 provides sourcing compliance relief to certain eligible taxpayers impacted by RCW 82.32.490 and RCW 82.32.730. Collectively, these two statutes require local Washington retail sale taxes to be sourced under new rules effective July 1, 2008. The new sourcing rules implement destination based sourcing.

This section provides information about the relief provided in RCW 82.32.760. This section is divided into three subsections. Subsection (1) contains this introduction. Subsection (2) provides a list of commonly used terms. Subsection (3) describes the taxpayer relief available under RCW 82.32.760.

(2) Commonly used terms. (a) What is a Certified Service Provider (CSP)? A CSP is an agent of the seller certified under the Streamline Sales and Use Tax Agreement (SSUTA) to perform all of that seller's retail sales and use tax functions, other than the seller's obligation to remit retail sales and use tax on its own purchases. For a list of current CSPs visit the SSUTA web site located at: <http://www.streamlinedsalestax.org>. This website is not maintained by Washington or the department. The web site is current as of the date of adoption of this section, but may change in future periods by action of the owner of the web site without notice.

(b) What is an eligible taxpayer? An eligible taxpayer is any taxpayer that:

(i) Has registered with the department and is engaged in making sales of tangible personal property delivered to physical locations away from the taxpayer's place of business immediately prior to July 1, 2008;

(ii) And meets all of the following requirements during the 2008 calendar year:

(A) A physical presence in Washington;

(B) Gross income from business of less than five-hundred thousand dollars;

(C) At least five percent of its gross income from sales subject to sales tax in Washington derived from sales of tangible personal property delivered to physical locations away from the taxpayer's place of business; and

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(D) At least one percent of its gross income from sales subject to sales tax in Washington derived from deliveries of tangible personal property to destinations in local Washington jurisdictions imposing sales tax other than the one to which the taxpayer reported the most local sales tax during the 2008 calendar year.

c) **What are eligible costs?** Eligible costs represent those goods and services purchased and labor costs incurred for the purpose of complying with local sales and use tax sourcing rules under RCW 82.32.490 and RCW 82.32.730. Examples of eligible costs include but are not limited to the purchase of new software or modification of existing software used to implement the new local sourcing rules; the hiring of professionals such as accountants, consultants, or attorneys to implement the new local sourcing rules; the costs for the purchase or modification of equipment used to implement the new local sourcing rules (including but not limited to cash registers and similar items); and payroll expenses associated with the implementation of the new local sourcing rules. These costs must be incurred between July 1, 2007 and June 30, 2009 to be eligible.

(3) **I am an eligible taxpayer and my business will be implementing the new sourcing rules for local sales tax that start on July 1, 2008, what relief does Washington provide?** You are entitled either to take a one thousand dollar (\$1000.00) credit for your eligible costs, or you may use the services of a CSP subsidized by Washington for a period of up to two years. You may choose either the credit or the CSP services option, but not both. This subsection explains both the taxpayer credit and the CSP services option. You will not need to apply in order to take advantage of these options, but you must keep records sufficient to allow the department to determine eligibility. The department may prescribe rules and procedures regarding the administration of this section.

(a) **How does the one thousand dollar (\$1000.00) credit option work?** You may take a tax credit of up to one thousand dollar \$1,000.00 for your eligible costs (see section (2)(c) above). You must take this credit against your retail sales taxes imposed by RCW 82.08.020(1) which were collected and also your business and occupation taxes imposed under RCW 82.04.220. The credit may not be taken against the local sales taxes you collect. The amount of your credit is equal to the sum of your eligible costs. You may take the credit only for costs incurred from July 1, 2007 through June 30, 2009. The maximum credit you may take is one thousand dollar (\$1000.00).

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You must first make a claim for the credit during those tax reporting periods that fall between July 1, 2008 and June 30, 2009. Thus, you must make a claim for the credit within the applicable deadline associated with the filing of your returns for that one year period. However, this does not affect your ability to claim unused credit until it is used. You may not obtain a refund instead of the credit.

(b) How does the CSP services option work? You may use the services of a CSP for a two year period starting July 1, 2008 and ending June 30, 2010. Washington will compensate your CSP for its services in collecting and remitting sales and use taxes for Washington on your behalf. Washington will not compensate the CSP unless it is performing for you the full services contractually required of CSP's by the Streamlined Sales and Use Tax Agreement (SSUTA) Governing Board. If the CSP is providing a lesser level of service, Washington will not compensate the CSP for any of the service. However, you may be able to claim the credit of up to \$1,000.00 for what the CSP charges you. You cannot select this option if you are claiming a credit under subsection(3)(a) above. Washington will not compensate CSP's for services provided to you prior to July 1, 2008. If you use a CSP under this section, you will generally not be liable to Washington for sales or use taxes due on transactions processed by your CSP unless you misrepresent the type of items you sell or commit fraud.

(c) CSPs: Filing Returns, Remitting Taxes, and Compensation.

(i) How do CSPs file tax returns and remit retail sale taxes under this section? CSPs must file retail sales and use excise tax returns for eligible taxpayers using Washington's electronic filing system (E-file). CSPs must remit retail sales and use taxes due with respect to these returns using ACH Debit, ACH Credit, or the Fedwire Funds Transfer System.

(ii) How are CSP's paid for their services under this section? CSPs are permitted to retain a portion of the retail sales taxes they collect for eligible taxpayers as compensation. The formula for determining compensation under this subsection is as follows: (Combined collected Washington retail sales and use taxes collected for each eligible taxpayer) multiplied by (the applicable base rate). Table A below sets forth the "combined collected Washington retail sales and use tax" as well as the applicable base rate.

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Table A

Eligible Taxpayer Combined Collected Washington Retail Sales and Use Tax:			Base Rate:
\$0.00	-	\$5,000	4%
\$5,001.01	-	\$20,000	3.7%
\$20,001.01	-	\$50,000	3.3%
\$50,001.01	-	\$100,000	3.0%
\$100,001.01	-	\$200,000	2.7%
\$200,001.01	-	\$500,000	2.3%
Over \$500,000.01			2%

(d) Taxpayer Liability.

(i) What happens if I incorrectly claim the one thousand dollar (\$1000.00) credit option under (3)(a)? If you take a credit under subsection (3)(a) and are not an eligible taxpayer, you are immediately liable to the department for the amount of the credit erroneously claimed. If any amounts due under this subsection are not paid by the due date of any notice informing you of such liability, the department shall apply interest, but not penalties, to amounts remaining due. Interest assessed under this subsection shall be at the rate provided for delinquent excise taxes under Chapter 82.32 RCW from the day after the due date provided in the notice until the amount due under this subsection is paid in full. All administrative provisions of Chapter 82.32 RCW applicable to the collection of taxes apply to amounts due under this subsection.

(ii) What happens if I incorrectly claim the CSP services option under (3)(b)? If you use a CSP and the CSP retains compensation under subsection (3)(b) and you are not an eligible taxpayer, you are immediately liable to the department for the compensation retained by the CSP. If any amounts due under this subsection are not paid by the due date of any notice informing you of such liability, the department shall apply interest, but not penalties, to amounts remaining due. Interest assessed under this subsection shall be at the rate provided for delinquent excise taxes under Chapter 82.32 RCW from the day after the due date provided in the notice until the amount due under this subsection is paid in full.