

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

NEW SECTION

**WAC 458-20-27702 Taxpayer relief--Sourcing compliance--One thousand dollar credit and certified service provider compensation for small businesses.** (1) **Introduction.** RCW 82.32.760 provides sourcing compliance relief to certain eligible taxpayers impacted by RCW 82.14.490 and 82.32.730. RCW 82.14.490 and 82.32.730 govern where the local retail sales taxes attributable to the sale of tangible personal property, retail services, extended warranties, and the lease of tangible personal property are sourced. "Sourced" and "sourcing" refer to the location (as in a local taxing district, jurisdiction, or authority) where a sale or lease is deemed to occur and is subject to tax. Effective July 1, 2008, RCW 82.14.490 and 82.32.730 will change the way in which many sellers collect Washington's local retail sales taxes, resulting in some added transitional costs to these sellers. This section gives information about the relief provided in RCW 82.32.760 related to these new sourcing provisions.

In subsection (3)(c) of this section, the department of revenue (department) provides an example that identifies facts and then states a conclusion. This example should be used only as a general guide. The tax results of other situations must be determined separately after a review of all of the facts and circumstances.

(2) **Commonly used terms.**

(a) **What is a certified service provider (CSP)?** A CSP is an agent of the seller certified under the Streamlined 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 taxes on its own purchases. For a list of current CSPs visit the SSUTA web site located at: <http://www.streamlinedsalestax.org>. This web site is not maintained by the state of 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) **Who is an eligible taxpayer?** You will be an eligible taxpayer if you meet all of the following conditions:

(i) You are registered with the department and are engaged in making sales of tangible personal property delivered to

physical locations away from your place of business on June 30, 2008; and

(ii) You meet all of the following requirements for the 2008 calendar year:

(A) You have a physical presence in Washington;

(B) You have annual gross income of the business in an amount less than five hundred thousand dollars;

(C) You have at least five percent of your annual gross income from sales subject to sales tax in Washington derived from sales of tangible personal property delivered to physical locations away from your place of business; and

(D) You have at least one percent of your annual gross income from sales subject to sales tax in Washington derived from deliveries of tangible personal property to destinations in local Washington jurisdictions other than the one to which you reported the most local sales tax.

"Gross income of the business" for the purpose of applying (b) of this subsection means gross income of the business as defined under chapter 82.04 RCW that is subject to tax in Washington. The requirements under (b)(ii) of this subsection apply only to the 2008 calendar year. This means for instance that an eligible taxpayer may earn over five hundred thousand dollars in gross income of the business for the calendar years 2009 and 2010 respectively and not lose eligibility under this section.

(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 82.14.490 and 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 actually incurred between July 1, 2007, and June 30, 2009, to be eligible.

(3) **What relief does Washington provide?** If you are an eligible taxpayer, you are entitled either to take up to a one thousand dollar 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. 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.

(a) **How does the one thousand dollar credit option work?**

You may take a tax credit of up to one thousand dollars for your eligible costs (see subsection (2)(c) of this section). You must take this credit against Washington state retail sales taxes imposed by RCW 82.08.020(1) that you collect or your business and occupation taxes imposed under chapter 82.04 RCW. 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 actually incurred from July 1, 2007, through June 30, 2009.

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 take unused credit after June 30, 2009, for costs actually incurred before that date until your credit 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 up to 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 a CSP under the CSP description provided in subsection (2)(a) of this section. If the CSP is providing a lesser level of service, Washington will not compensate the CSP for any of that service. However, you may be able to claim the credit of up to one thousand dollars for what the CSP charges you in such instances.

Washington will not compensate a CSP for services provided to you prior to July 1, 2008, or after June 30, 2010. 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 and paid to the state of Washington by your CSP unless you misrepresent the type of items you sell or you commit fraud. CSP compensation will not be funded from any portion of the local retail taxes that are collected and reported. These local retail sales taxes must be remitted to the department in full. This option is not available to model 1 volunteer sellers using the services of a CSP as described in WAC 458-20-277.

(c) **CSPs: Filing returns, remitting taxes, and compensation.**

(i) **How do CSPs file tax returns and remit retail sales taxes under this section?** CSPs must file retail sales and use excise tax returns for eligible taxpayers electronically. CSPs must pay retail sales and use taxes due with respect to these returns using ACH Debit, ACH Credit, or the Fedwire Funds Transfer System.

(ii) **How do CSPs determine their compensation under this**

**section?** A CSP computes its compensation by multiplying the amount of Washington state and local retail sales and use taxes collected and reported by the CSP on behalf of an eligible taxpayer (taxes due) for each applicable calendar year by the established CSP compensation rate.

The compensation rates established for CSPs are provided in Table A below. The applicable calendar years during which a CSP may compute compensation are as follows: Calendar year 2008 (computed from July 1, 2008, through December 31, 2008), calendar year 2009 (computed from January 1, 2009, through December 31, 2009), and calendar 2010 (computed from January 1, 2010, through June 30, 2010).

(iii) **What are the CSP compensation rates?** The CSP compensation rates are contained in Table A below.

Table A

Taxes Due	Compensation Rate:
\$0.00 - \$5,000.00	4%
\$5,000.01 - \$20,000.00	3.7%
\$20,000.01 - \$50,000.00	3.3%
\$50,000.01 - \$100,000.00	3%
\$100,000.01 - \$200,000.00	2.7%
\$200,000.01 - \$500,000.00	2.3%
Over \$500,000.01	2%

The compensation rate in Table A is graduated. For example, the highest rate (4%) applies to the first five thousand dollars of taxes due, and the next highest rate (3.7%) applies to the next fifteen thousand dollars of taxes due.

The compensation rate in Table A resets each calendar year. For example, the highest rate (4%) applies to the first five thousand dollars of taxes due for each applicable calendar year that the CSP provides CSP services to an eligible taxpayer, with the next highest rate (3.7%) applying to the next fifteen thousand dollars of taxes due for the applicable calendar year.

(iv) **Example - Determining CSP compensation.** Widgets is an eligible taxpayer that does not claim the \$1,000 credit described in (a) of this subsection. Widgets retains a CSP, Easysoft, to perform all of its retail sales and use tax functions other than the obligation to remit retail sales and use taxes on its own purchases. Easysoft files Widgets' Washington state excise tax returns and remits the related taxes due electronically.

(A) **First year - Calendar year 2008.** From July 1, 2008,

through December 31, 2008, Easysoft collects and reports \$5,000 in taxes due for Widgets. Easysoft may retain \$200 of the taxes due as compensation, which is computed as follows:

4% the first \$5,000 of taxes due = \$200

(B) **Second year - Calendar year 2009.** From January 1, 2009, through December 31, 2009, Easysoft collects and reports \$200,000 in taxes due for Widgets. Easysoft may retain \$5,945 of the taxes due as compensation (\$200 + \$555 + \$990 + \$1,500 + \$2,700), which is computed as follows:

4% the first \$5,000 of taxes due = \$200

3.7% of the next \$15,000 of taxes due = \$555

3.3% of the next \$30,000 of taxes due = \$990

3% of the next \$50,000 in taxes due = \$1,500

2.7% of the next \$100,000 in taxes due = \$2,700

(C) **Third year - Calendar year 2010.** From January 1, 2010, through June 30, 2010, Easysoft collects and reports \$120,000 in taxes due for Widgets for this period. Easysoft may retain \$3,785 of the taxes due as compensation (\$200 + \$555 + \$990 + \$1,500 + \$540), which is computed as follows:

4% the first \$5,000 of taxes due = \$200

3.7% of the next \$15,000 of taxes due = \$555

3.3% of the next \$30,000 of taxes due = \$990

3% of the next \$50,000 in taxes due = \$1,500

2.7% of the next \$20,000 in taxes due = \$540

(d) **Taxpayer liability.**

(i) **What happens if I incorrectly claim the one thousand dollar credit option under (a) of this subsection?** If you take a credit under (a) of this subsection 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.

(ii) **What happens if I incorrectly claim the CSP services option under (b) of this subsection?** If you use a CSP and the CSP retains compensation under (b) of this subsection 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.

