

This rule was adopted on August 30, 2010 and becomes effective September 30, 2010. It may be used to determine tax liability on and after the effective date, until the codified version is available from the code reviser's office.

AMENDATORY SECTION (Amending Order ET 83-5, filed 8/1/83)

WAC 458-20-143 Printers and publishers of newspapers, magazines, and periodicals.

~~((Business and Occupation Tax~~

~~**Printing and publishing.** Publishers of newspapers, magazines and periodicals are taxable under the printing and publishing classification upon the gross income derived from the publishing business.~~

~~Persons)) (1) **Introduction.** This section explains the application of the business and occupation (B&O), retail sales, and use taxes to printers and/or publishers of newspapers, magazines, periodicals, and other printed materials. The department of revenue (department) has adopted other sections providing tax reporting information to persons printing, publishing, or selling these publications and other printed materials.~~

~~. Persons selling newspapers, magazines, and periodicals that are not printed and/or published by the seller should also refer to WAC 458-20-127;~~

~~. For information regarding the printing industry in general, see WAC 458-20-144;~~

~~. For information regarding the tax-reporting responsibilities of persons selling direct mail or engaging in business as a mailing bureau, see WAC 458-20-141;~~

~~. For information regarding the tax-reporting responsibilities of persons duplicating printed materials for others, see WAC 458-20-141;~~

~~. For information regarding potential litter tax liability, see WAC 458-20-243.~~

~~(2) **Definitions.** The following definitions apply throughout this section:~~

~~(a) **"Newspaper."**~~

~~(i) Effective July 1, 2008, "newspaper" means a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper; and an electronic version of a printed newspaper that:~~

~~. Shares content with the printed newspaper; and~~

~~. Is prominently identified by the same name as the printed~~

newspaper or otherwise conspicuously indicates that it is a complement to the printed newspaper. See RCW 82.04.214.

(ii) Prior to July 1, 2008, "newspaper" means a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind.

(b) **"Supplement"** means a printed publication, including a magazine or advertising section, that is:

(i) Labeled and identified as part of the printed newspaper; and

(ii) Circulated or distributed:

. As an insert or attachment to the printed newspaper; or

. Separate and apart from the printed newspaper so long as the distribution is within the general circulation area of the newspaper.

(c) **"Periodical or magazine"** means a printed publication, other than a newspaper, issued regularly at stated interval at least once every three months, including any supplement or special edition of the publication.

(d) For purposes of this section, **"other printed material"** refers to printed materials other than newspapers, magazines, or periodicals.

(3) **General tax guidance.**

(a) **Publishing newspapers.** Effective July 1, 2009, publishers of newspapers are taxable under the publication of newspapers classification of the B&O tax upon the gross income (including advertising income) derived from publishing newspapers. See (d) of this subsection and RCW 82.04.260(13). Prior to July 1, 2009, publishers of newspapers are taxable under the printing and publishing classification of the B&O tax upon the gross income (including advertising income) derived from publishing newspapers.

Persons reporting income under the publication of newspapers classification of the B&O tax must file a complete annual report with the department. In addition, such persons must electronically file with the department all surveys, reports, returns, and any other forms. Refer to RCW 82.32.600 and WAC 458-20-267 for the specific guidelines and requirements.

Retail sales of newspapers, whether by publishers or others, are exempt from retail sales tax. See RCW 82.08.0253.

(b) **Publishing periodicals or magazines.** Publishers of periodicals or magazines are taxable under the printing and publishing classification of the B&O tax upon the gross income (including advertising income) derived from publishing periodicals or magazines. See (d) of this subsection and RCW 82.04.280(1).

Retail sales of printed magazines and periodicals are subject to retail sales tax. Magazines and periodicals

transferred electronically to the end user are also subject to the retail sales tax regardless of how they are accessed. For more information on the sale of digital products, refer to RCW 82.04.050, 82.04.192, and 82.04.257.

(c) Publishing other printed materials. Retail and wholesale sales of other printed materials by persons who both print and publish (~~books, music, circulars, etc., or any other~~) the items, are (~~likewise~~) taxable under the printing and publishing classification. (~~However,~~) Persons (~~(, other than publishers of newspapers, magazines or periodicals,)~~) who publish (~~(such things and)~~) but do not print (~~(the same)~~) other printed materials, are (~~(taxable under either)~~) subject to:

. Either the wholesaling or retailing (~~(classification)~~) B&O tax, measured by gross sales (~~(,)~~) of the other printed materials; and (~~(taxable under)~~)

. The service (~~(classification)~~) and other activities B&O tax, measured by the gross income received from advertising.

~~((Retail Sales Tax~~

~~Sales of newspapers, whether by publishers or others, are specifically exempt from the retail sales tax.~~

~~However, sales of magazines, periodicals, and all publications other than newspapers are subject to the retail sales tax when made to consumers.~~

~~**"Newspaper" defined.** The word "newspaper" means a publication of general circulation bearing a title, issued regularly at stated intervals of at least once every two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of publication, where such newspapers are distributed regularly to a paid subscription list.)~~

(d) Doing business inside and outside the state. RCW 82.04.460 requires that advertising income earned by printers and by publishers of newspapers, periodicals, and magazines derived from business activities performed within Washington be apportioned to this state for tax purposes. Refer to chapter 23 (E2SSB 6143), Laws of 2010 1st sp. sess. Part I for information on apportioning advertising income.

(e) Wholesale sales of printed materials. Sales of magazines, periodicals, and other printed materials by the publisher to newsstands, book stores, department stores, and others who resell such items are wholesale sales. Such sales are not subject to retail sales tax when the buyer provides a resale certificate (WAC 458-20-102A) for sales made before January 1, 2010, or a reseller permit (WAC 458-20-102) for sales

made on or after January 1, 2010, to the seller.

(4) Sales to publishers.

(a) Sales to newspaper((s)), magazine and periodical publishers of paper and printers ink which become a part of the publications sold, and sales by printers of printed publications to publishers for sale, are wholesale sales ((for resale)) and are not subject to the retail sales tax when the buyer provides a resale certificate (WAC 458-20-102A) for sales made before January 1, 2010, or a reseller permit (WAC 458-20-102) for sales made on or after January 1, 2010, to the seller.

(b) With respect to community newspapers which are distributed free of charge, where the publisher has a contract with his advertisers to distribute the newspaper to the subscriber in consideration for the payments made by the advertisers, it will be construed that the publisher sells the newspaper to the advertiser, and, therefore, the retail sales tax will not apply with respect to the charge made by the printer to the publisher for printing the newspaper or with respect to the purchase of ink and paper when the publisher prints his own newspaper.

(c) Sales to newspaper, magazine or periodical publishers of equipment and of supplies and materials which do not become a part of the finished publication (~~(which)~~) that is sold are subject to the retail sales tax unless specifically exempt (see subsection (5) of this section). This includes, among others, sales of ~~((engravings,))~~ fuel, furniture, lubricants, ~~((machinery, negatives and plates used in offset printing, photographs, stationery))~~ and ~~((writing ink. Sales of engravings to publishers are subject to the retail sales tax unless the publisher resells such engravings without intervening use))~~ office supplies.

(d) Sales to newspaper, magazine or periodical publishers of baseball bats, bicycles, dolls and other articles of tangible personal property which are to be distributed by the publisher as gifts, premiums or prizes are sales for consumption and subject to the retail sales tax.

~~((So-called "sales"))~~ (e) Sales by authors and artists to publishers of the right to publish scripts, paintings, illustrations and cartoons are mere licenses to use, not sales of tangible personal property and~~((, therefore,))~~ are not subject to the retail sales tax.

(5) Exemption for sales of computer equipment to printers and/or publishers. RCW 82.08.806 and 82.12.806 provide printers and publishers retail sales and use tax exemptions for computer equipment that is used primarily in the printing or publishing of any printed material. The exemption includes repair parts and replacement parts for such equipment and sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer

equipment. The exemption also includes maintenance agreements (service contracts), as defined in WAC 458-20-257, on such equipment. This exemption applies only to computer equipment not otherwise exempt under RCW 82.08.02565.

(6) **Use tax.** Publishers of newspapers, magazines and periodicals are subject to tax upon the value of articles printed or produced for use in conducting such business. Tax also applies to materials, supplies, and other items which do not become part of the finished publication or which are not resold. Where retail sales tax is not paid, the publisher must remit the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department unless specifically exempt by law. Deferred sales or use tax should be reported on the use tax line of the buyer's excise tax return. For detailed information about use tax, refer to WAC 458-20-178, Use tax.