

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings. Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

AMENDATORY SECTION (Amending WSR 06-04-033, filed 1/26/06, effective 2/26/06)

WAC 458-20-144 Printing industry. (1) **Introduction.** This section discusses the taxability of the printing industry. For information on the taxability of mailing bureau services and a discussion of direct mail, refer to WAC 458-20-141(~~7 Duplicating industry and mailing bureaus.~~

~~Chapter 514, Laws of 2005, changed the taxability of delivery charges associated with direct mail. Refer to subsection (4) of this section for further information).~~ For information on the taxability of printers and publishers of newspapers, magazines, and periodicals, refer to WAC 458-20-143.

(2) **Definition.** The phrase "printing industry" includes letterpress, offset-lithography, and gravure processes as well as multigraph, mimeograph, autotyping, addressographing and similar activities.

(3) **Business and occupation tax.**

(a) Printers are subject to the business and occupation tax under the printing and publishing classification upon the gross income of the business.

(b) Effective July 1, 2009, printers of newspapers are taxable under the publication of newspapers classification of the B&O tax upon the gross income of the business. 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.

(c) **Doing business inside and outside the state.** RCW 82.04.460 requires that advertising income earned by printers 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.

(4) **Retail sales tax.**

(a) The printing or imprinting of advertising circulars, books, briefs, envelopes, folders, posters, racing forms, tickets, and other printed matter, whether upon special order or upon materials furnished either directly or indirectly by the

customer is a retail sale and subject to the retail sales tax, providing the customer either consumes, or distributes such articles free of charge, and does not resell such articles in the regular course of business. The retail sales tax is computed upon the total charge for printing, and the printer may not deduct the cost of labor, author's alterations, or other service charges in performing the printing, even though such charges may be stated or shown separately on invoices.

~~((RCW 82.04.070 and 82.08.010, respectively, define "gross proceeds of sales" and "selling price." These definitions provide that there is no deduction for "delivery costs." RCW 82.08.010 further provides that there is no deduction for "delivery charges," a term also defined by the statute to include postage. Effective May 17, 2005, chapter 514, Laws of 2005, provides a B&O tax deduction and retail sales and use tax exemption from the measure of tax for amounts derived from delivery charges for direct mail when the delivery charges are separately stated on an invoice or similar billing invoice provided to the buyer.~~

~~"Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address. RCW 82.08.010 and chapter 514, Laws of 2005.~~

~~"Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. RCW 82.08.010.)~~

(b) Sales of printed matter to advertising agencies who purchase for their own use or for the use of their clients, and not for resale in the regular course of business, are sales for consumption and subject to the retail sales tax.

(c) Sales of tickets to theater owners, amusement operators, transportation companies and others are sales for consumption and subject to the retail sales tax. Such tickets are not resold by the theater owners or amusement proprietors as tangible personal property but are used merely as a receipt to the patrons for payment and as evidence of the right to admission or transportation.

(d) Sales of school annuals and similar publications by printers to school districts, private schools or student organizations therein are subject to the retail sales tax.

(e) Sales by printers of books, envelopes, folders, posters, racing forms, stationery, tickets and other printed matter to dealers for resale in the regular course of business are wholesale sales ((and are not subject to the retail sales tax)). Such sales are not subject to retail sales tax when seller obtains a resale certificate for sales made before January 1, 2010, or a reseller permit for sales made on or after January 1, 2010, from the buyer to document the wholesale nature of the sale as provided in WAC 458-20-102A (Resale certificates) and WAC 458-20-102 (Reseller permits). Even though resale certificates are no longer used after December 31, 2009, they must be kept on file by the seller for five years from the date of last use or December 31, 2014.

(f) Charges made by bookbinders or printers for imprinting, binding or rebinding of materials for consumers are subject to the retail sales tax.

(g) Sales to printers of equipment, supplies and materials which do not become a component part or ingredient of the finished printed matter sold or which are put to "intervening use" before being resold are subject to the retail sales tax unless specifically exempt (see subsection (5) of this section). This includes, among others, sales of fuel, furniture, and lubricants(~~(, machinery, type, lead, slugs and mats)~~).

(h) Sales to printers of paper stock and ink which become a part of the printed matter sold are sales for resale and 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.

(5) **Exemption for sales of computer equipment to printers.** RCW 82.08.806 and 82.12.806 provide a retail sales and use tax exemption to a printer or publisher, of computer equipment, including repair parts and replacement parts for such equipment, when the computer equipment is used primarily in the printing or publishing of any printed material, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer equipment. This exemption applies only to computer equipment not otherwise exempt under RCW 82.08.02565.

(6) **Commissions and discounts.**

(a) There is a general trade practice in the printing industry of making allowances to advertising agencies of a certain percentage of the gross charge made for printed matter ordered by the agency either in its own name or in the name of the advertiser. This allowance may be a "commission" or may be a "discount."

(b) A "commission" paid by a seller constitutes an expense of doing business and is not deductible from the measure of tax under either business and occupation tax or retail sales tax.

On the other hand, a "discount" is a deduction from an established selling price allowed to buyers, and a bona fide discount is deductible under both these classifications.

(c) In order that there may be a definite understanding, printers, advertising agencies and advertisers are advised that tax liability in such cases is as follows:

~~((a))~~ (i) The allowance taken by an advertising agency will be deductible as a discount in the computation of the printer's liability only in the event that the printer bills the charge on a net basis; i.e., less the discount.

~~((b))~~ (ii) Where the printer bills the gross charge to the agency, and the advertiser pays the sales tax measured by the gross charge, no deduction will be allowed, irrespective of the fact that in payment of the account the printer actually receives from the agency the net amount only; i.e., the gross billing, less the commission retained by the agency. In all cases the commission received is taxable to the agency.