

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 97-11-022, filed 5/13/97, effective 6/13/97)

**WAC 458-20-174 Sales of motor vehicles, trailers, and parts to motor carriers operating in interstate or foreign commerce.**

(1) **Introduction.** This section explains the retail sales tax exemptions provided by RCW 82.08.0262 and 82.08.0263 for sales to for hire motor carriers operating in interstate or foreign commerce. Addressed are the requirements which must be met and the documents which must be preserved to substantiate a claim of retail sales tax exemption. Motor carriers should refer to WAC 458-20-17401 for a discussion of the use tax and use tax exemptions available to motor carriers for the purchase or use of vehicles and parts under RCW 82.12.0254.

(2) **Business and occupation tax.** Business and occupation (B&O) tax is due on all sales to motor carriers when delivery is made in Washington, notwithstanding that the retail sales tax may not apply because of the specific statutory exemptions provided by RCW 82.08.0262 and 82.08.0263.

(a) **Retailing of interstate transportation equipment.** This B&O tax classification, with respect to sales to motor carriers, applies to retail sales which are exempt from retail sales tax because of the provisions of RCW 82.08.0262 or 82.08.0263. (See RCW 82.04.250.) The retailing of interstate transportation B&O tax applies to the following, but only when the retail sales tax exemption requirements for RCW 82.08.0262 or 82.08.0263 are met:

(i) Sales of motor vehicles, trailers, and component parts thereof;

(ii) The lease of motor vehicles and trailers without operator; and

(iii) Charges for labor and services rendered in respect to constructing, cleaning, repairing, altering or improving vehicles and trailers or component parts thereof. The term "component parts" means any tangible personal property which is attached to and becomes an integral part of the motor vehicle or trailer. It includes such items as motors, motor and body parts, batteries, paint, permanently affixed decals, and tires. "Component parts" includes the axle and wheels, referred to as "converter gear" or "dollies," which is used to connect a trailer behind a tractor and trailer. "Component parts" can include tangible personal property which is attached to the vehicle and used as an integral part of the motor carrier's operation of the vehicle, even if the item is not required

mechanically for the operation of the vehicle. It includes cellular telephones, communication equipment, fire extinguishers, and other such items, whether themselves permanently attached to the vehicle or held by brackets which are permanently attached. If held by brackets, the brackets must be permanently attached to the vehicle in a definite and secure manner with these items attached to the bracket when not in use and intended to remain with that vehicle. It does not include antifreeze, oil, grease, and other lubricants which are considered as consumed at the time they are placed into the vehicle, even though required for operation of the vehicle. It does include items such as spark plugs, oil filters, air filters, hoses and belts.

(b) **Retailing.** The retailing B&O tax applies to the following:

(i) Sales and services as described in (a)(i) through (iii) of this subsection, which do not meet the exemption requirements provided in RCW 82.08.0262 or 82.08.0263;

(ii) Sales of equipment, tools, parts and accessories which do not become a component part of a motor vehicle or trailer used in transporting persons or property therein;

(iii) Sales of consumable supplies, such as oil, antifreeze, grease, other lubricants, cleaning solvents and ice; and

(iv) Towing charges.

(c) **Interstate sales deduction for lease income.** Persons who lease motor vehicles and trailers to motor carriers at retail (without operator) may claim an interstate sales deduction for the amount of the lease income attributable to the actual out-of-state use of the vehicles and trailers. Documentation substantiating such a claim must be retained by the lessor. This deduction may be taken even if the vehicle is not used substantially in interstate hauls for hire. The B&O tax applies to that portion of use of the vehicle while the vehicle is being used in Washington, even if the usage is in connection with interstate hauls and the vehicle is used substantially in hauling for hire in interstate commerce. See also WAC 458-20-193 Inbound and outbound interstate sales of tangible personal property.

(3) **Retail sales tax.** RCW 82.08.0262 and 82.08.0263 provide retail sales tax exemptions for certain sales to motor carriers when delivery is made in Washington.

(a) **Sales of motor vehicles and trailers.** RCW 82.08.0263 provides an exemption from the retail sales tax for sales of motor vehicles and trailers to be used for transporting therein persons or property for hire in interstate or foreign commerce. This exemption is available whether such use is by a for hire motor carrier, or by persons operating the vehicles and trailers under contract with a for hire motor carrier. The for hire

carrier must hold a carrier permit issued by the Interstate Commerce Commission or its successor agency to qualify for this exemption. The seller, at the time of the sale, must retain as a part of its records an exemption certificate which must be completed in its entirety. The ~~((exemption certificate))~~ buyers' retail sales tax exemption certificate is available on the department's internet site at <http://dor.wa.gov>, or can be obtained by contacting the department at:

Taxpayer Services  
Department of Revenue  
P.O. Box 47478  
Olympia, WA 98504-7478  
1-800-647-7706

If the department's buyers' retail sales tax exemption certificate is not used, the form used must be in substantially the following form:

### **Exemption Certificate**

The undersigned hereby certifies that it is, or has contracted to operate for, the holder of carrier permit No. . . . ., issued by the Interstate Commerce Commission or its successor agency, and that the vehicle this date purchased from you being a (specify truck or trailer and make) , Motor No. . . . . , Serial No. . . . . is entitled to exemption from the Retail Sales Tax under the provisions of RCW 82.08.0263. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

Dated

(name of carrier-  
purchaser)

By

(title)

(address)

The lease of motor vehicles and trailers to motor carriers, without operator, must satisfy all conditions and requirements provided by RCW 82.08.0263 to qualify for the retail sales tax exemption. Failure to meet these requirements will require the lessor to collect the retail sales tax on the lease. However, where the exemption from retail sales tax has not been met, a retail sales tax exemption may continue to apply to that portion of the lease while the vehicle is being used outside Washington, provided the lessor can substantiate the usage outside Washington. (See WAC 458-20-193.)

(b) **Sales of component parts of motor vehicles and trailers and charges for repairs, etc.** RCW 82.08.0262 provides an exemption from the retail sales tax for sales of component parts and repairs of motor vehicles and trailers. This exemption is available only if the user of the motor vehicle or trailer is the holder of a carrier permit issued by the Interstate Commerce Commission or its successor agency which authorizes transportation by motor vehicle across the boundaries of Washington. Since carriers are required to obtain these permits only when the carrier is hauling for hire, the exemption applies only to parts and repairs purchased for vehicles which are used in hauling for hire. The exemption includes labor and services rendered in constructing, repairing, cleaning, altering, or improving such motor vehicles and trailers.

(i) This exemption is available whether the motor vehicles or trailers are owned by, or operated under contract with, persons holding the carrier permit. This exemption applies even if the motor vehicle or trailer to which the parts are attached will not be used substantially in interstate hauls, provided the vehicles are used in hauling for hire.

(ii) The seller must retain as a part of its records a completed exemption certificate. This certificate may be:

(A) Issued for each purchase;

(B) Incorporated in or stamped upon the purchase order; or

(C) In blanket form certifying all future purchases as being exempt from sales tax. (~~Blanket forms must be renewed every four years.~~) Blanket exemption certificates are valid for as long as the buyer and seller have a recurring business relationship. A "recurring business relationship" means at least one sale transaction within a period of twelve consecutive months. RCW 82.08.050 (7)(c).

(iii) (~~This certificate~~) The buyers' retail sales tax exemption certificate is available on the department's internet site at <http://dor.wa.gov>, or can be obtained by contacting the department at:

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Department of Revenue  
P.O. Box 47478  
Olympia, WA 98504-7478  
1-800-647-7706

If the department's buyers' retail sales tax exemption certificate is not used, the form used must be in substantially the following form:

#### **Exemption Certificate**

The undersigned hereby certifies that it is, or has contracted to operate for, the holder of a carrier permit, No. . . . ., issued by the Interstate Commerce Commission or its successor agency authorizing transportation by motor

vehicle across the boundaries of this state. The undersigned further certifies that the motor truck or trailer to be constructed, repaired, cleaned, altered, or improved by you, or to which the subject matter of this purchase is to become a component part, will be used in direct connection with the business of transporting therein persons or property for hire; and that such sale and/or charges are exempt from the Retail Sales Tax under the provisions of RCW 82.08.0262. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

Dated

(name of carrier-  
purchaser)

(address)

By

(title)

(c) **Taxable sales.** The following sales do not qualify for exemption under the provisions of RCW 82.08.0262 or 82.08.0263, and are subject to the retail sales tax when delivery is made in Washington.

(i) Sales of equipment, tools, parts and accessories which do not become a component part of a motor vehicle or trailer used in transporting persons or property for hire. This includes items such as tire chains and tarps which are not custom made for a specific vehicle.

(ii) Sales of consumable supplies, such as oil, antifreeze, grease, other lubricants, cleaning solvents and ice.

(iii) Towing charges.

[Statutory Authority: RCW 82.32.300. 97-11-022, § 458-20-174, filed 5/13/97, effective 6/13/97; 94-18-003, § 458-20-174, filed 8/24/94, effective 9/24/94; 83-07-033 (Order ET 83-16), § 458-20-174, filed 3/15/83; Order ET 71-1, § 458-20-174, filed 7/22/71; Order 70-3, § 458-20-174 (Rule 174), filed 5/29/70, effective 7/1/70.]