

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 Order ET 83-15, filed 3/15/83)

**WAC 458-20-235 Effect of rate changes on prior contracts and sales agreements.** (~~The term "retail sales tax" as used herein means the state sales tax of chapter 82.08 RCW as well as the local sales taxes of chapter 82.14 RCW. The following principles govern the applicability of changes in the rates of tax imposed under the Revenue Act with respect to contracts and sales agreements made prior to the effective date of the change:~~

~~When an unconditional contract to sell tangible personal property is entered into prior to the effective date of a rate change, and the goods are delivered after that date, the new rates will be applicable to the transaction. When an unconditional contract to sell tangible property is entered into prior to the effective date, and the goods are delivered prior to that date, the tax rates in effect for the prior period will be applicable.~~

~~When a contract to sell tangible personal property contains a specific provision to pass title at some time prior to delivery of the goods, such a specific provision will be deemed controlling and the tax rates in effect at that time will be applicable.~~

~~The retail sales tax and business and occupation tax due on conditional and installment sales must be wholly reported during the period in which the sale is made (see WAC 458-20-198), irrespective of the fact that the seller may elect to receive payment of the sales tax in installments. Therefore, sellers who receive installment payments after the effective date of a rate change on conditional and installment sales made prior to that date must collect the sales tax due on such installments at the rate applicable when the contract was written and the sale was made.~~

~~Lessors who lease tangible personal property are required to collect from their lessees the retail sales tax measured by the gross income from rentals as of the time the rental payments fall due (WAC 458-20-211). Lessors must collect the retail sales tax and pay the business and occupation tax at the new rates on all rental payments which fall due on and after the effective date of a rate change, including rental payments on leases entered into prior to that date.~~

~~Persons installing, repairing, cleaning, altering,~~

~~imprinting or improving tangible personal property for others, or constructing, repairing, decorating or improving buildings or other structures upon the real property of others will collect retail sales tax and pay the business and occupation tax at the new rates with respect to all such services performed and billed on and after the effective date of a rate change. With respect to contracts requiring the above services or construction which were executed prior to the effective date of a change in rates, the new rates will be applicable to the full contract price unless the contract work is completed and accepted prior to the effective date. If, however, under the terms of the contract, the seller is entitled to periodic payments which amounts are calculated to compensate the seller for the work completed to the date of payment, the applicable tax rates upon such payments (including, in the case of public works contracts, the percentage retained by the public agency pursuant to the provisions of RCW 60.28.010) will be those in effect at the time the contractor becomes entitled to receive said payments.~~

~~Taxpayers filing returns on the cash basis (i.e., reporting charge sales at the time payment is received rather than at the time of sale) must make an accounts receivable adjustment (see WAC 458 20 199) at the time of a change in tax rates. For example, if a change of tax rate becomes effective July 1, a cash basis taxpayer should report along with the June cash receipts all accounts receivable outstanding as of June 30.~~

~~Intricate questions should be submitted in writing to the department of revenue for specific rulings.)~~ (1) Introduction. This section explains the principals that determine the applicability of changes in the rates of tax imposed under the Revenue Act, with respect to contracts, sales agreements, and installment sales made prior to the effective date of the change.

(2) Unconditional sales contracts.

When an unconditional sales contract to sell tangible personal property is entered into prior to the effective date of a rate change, and the property is delivered after the rate change date, the new tax rate applies to the transaction.

When an unconditional sales contract to sell tangible personal property is entered into prior to the effective date, and the property is delivered prior to the rate change date, the tax rate in effect for the prior period applies.

When a contract to sell tangible personal property contains a specific provision to pass title at some time prior to delivery of the property, such a specific provision is controlling and the tax rate in effect at that time applies.

(3) Conditional and installment sales. The taxes due on conditional and installment sales must be wholly reported during the period in which the sale is made (see WAC 458-20-198 Installment sales, method of reporting), even when the seller

receives payment in installments. Sellers who receive installment payments after the effective date of a rate change on conditional and installment sales made prior to that date do not need to adjust the installment payment amounts to reflect the rate change.

**(4) Leasing or rental of tangible personal property.**

Lessors who lease tangible personal property are required to collect from their lessees the retail sales tax measured by the gross income from leases or rentals as of the time the lease or rental payments are due (WAC 458-20-211 Leases or rentals of tangible personal property, bailments). Lessors must collect and remit taxes to the department of revenue (department) at the new rates on all lease or rental payments due on and after the effective date of a rate change, including lease or rental payments on contracts entered into prior to that date.

**(5) Repairing or improving tangible personal or real property.** When persons install, repair, clean, alter, imprint, or improve tangible person property for others, or improve buildings or other structures upon real property of others:

Sales and use tax rate increases apply to the first billing period starting on or after the effective date of the increase; and

Sales and use tax rate decreases apply when bills are rendered on or after the effective date of the decrease. (RCW 82.08.064)

The new tax rate applies to the full contract amount if the contract was executed prior to the effective date of the rate change, unless the contract work is completed and accepted prior to the effective date.

If under the terms of the contract, the seller is entitled to periodic payments, which amounts are calculated to compensate the seller for the work completed to the date of payment, the applicable tax rates upon such payments (including, in the case of public works contracts, the percentage retained by the public agency pursuant to the provisions of RCW 60.28.010) will be those in effect at the time the seller is entitled to receive the payments.

**(6) Do you have questions on rate changes?** If you have questions on how a rate change may affect you, please contact the Telephone Information Center at 1-800-647-7706, or write the department at:

Taxpayer Information and Education  
Department of Revenue  
P.O. Box 47478  
Olympia, WA 98504-7478.