

This rule was adopted on January 11, 2005, and becomes effective July 1, 2005. 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 83-17, filed 3/15/83, effective 3/14/83)

WAC 458-20-141 Duplicating (~~(-industry-)~~) activities and mailing bureaus. ~~The phrase "duplicating industry" includes activities involving photostating, blueprinting, xeroxing, and other reproduction processes.~~

~~Business and Occupation Tax~~

~~Duplicators are taxable under the retailing classification upon the gross proceeds received from sales of photostats, blueprints, copies, etc., to consumers, whether the tangible personal property on which the work is recorded is owned by the duplicator or customer.~~

~~The wholesaling all other classification applies to sales for resale in the regular course of the purchaser's business. The duplicator must secure a resale certificate in the usual form.~~

~~Neither of these classifications is applicable, however, if the article sold is delivered to an out of state customer at an out of state point or if an article is produced for commercial or industrial use (see WAC 458-20-134.) In these cases tax is due under the manufacturing classification on the "value of products."~~

~~Mailing bureaus mail material for the publishing industry and also mail folders, bulletins, form letters, advertising publications, flyers, and similar material for other customers. As part of these services, the bureaus also label, fold, enclose and seal. All of these activities come within the definition of "sale at retail" (RCW 82.04.050) as constituting "labor and services rendered in respect to . . . the . . . altering, imprinting or improving of tangible personal property of or for consumers."~~

~~The gross proceeds received by mailing bureaus from charges made to consumers, whether such charges are itemized or lump sum, are taxable under the retailing classification. The gross proceeds are taxable under the wholesaling all other classification where charges (lump sum or itemized) are for tangible personal property resold as such to the purchaser or for services rendered to tangible personal property which~~

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~~becomes a component of an article for resale in the regular course of the purchaser's business. In either case mailing bureaus must secure resale certificates in the usual form. Where a mailing bureau purchases stamps, government postals or stamped envelopes for a customer and the customer is charged therefor, the amount of the postage may be deducted from the measure of the business and occupation tax.~~

~~Retail Sales Tax~~

~~Sales by duplicators and mailing bureaus of tangible personal property (for example, photostats, blueprints, copies, mailing lists, "Dick" strips, etc.) and/or services rendered to tangible personal property of or for consumers are subject to the retail sales tax. Examples of persons purchasing as "consumers" are, among others, architects, engineers, and advertising agencies. Where a mailing bureau purchases stamps, government postals or stamped envelopes for a customer and the customer is charged therefor, the amount of the postage may be deducted from the measure of the retail sales tax due. Vendors selling tangible personal property to duplicators and mailing bureaus which will be resold, without any intervening use, are not required to collect the retail sales tax upon taking a resale certificate in the usual form. On the other hand, vendors selling to duplicators and mailing bureaus, equipment, supplies or materials which do not become a component part of an article produced for sale, or selling items which are subjected to intervening use before resale, are making retail sales and must collect the retail sales tax. (1)~~

~~**Introduction.** This rule discusses the business and occupation (B&O) tax and retail sales and use tax reporting responsibilities of persons who engage in duplicating activities or who provide mailing bureau services in Washington. Persons engaged in printing activities should refer to WAC 458-20-144 (Printing industry).~~

~~(2) **Duplicating activities.** Duplicating is the copying of typed, written, drawn, photographed, previously duplicated, or printed materials using a photographic process such as photocopying, color copying, or blueprinting.~~

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(a) **Sales of duplicated products.** Income from the sale of photostats, photocopies, blueprint copies and other duplicated tangible personal property to consumers is subject to the retailing B&O tax. The measure of tax is the gross proceeds of sale. The seller is also responsible for collecting and remitting retail sales tax on the selling price when making sales to consumers, unless a specific exemption applies. The wholesaling B&O tax applies to the gross proceeds of sale when the buyer purchases the duplicated property for resale without intervening use. The seller must obtain a resale certificate from the buyer to document the wholesale nature of any sale as provided in WAC 458-20-102 (Resale certificates).

If the seller is also the manufacturer of the duplicated products, the seller may be eligible for a multiple activities tax credit. Refer to WAC 458-20-19301 (Multiple activities tax credits) for more information about the credit.

(b) **Duplicating as a manufacturing activity.** A person duplicating tangible personal property for sale or commercial or industrial use (the use of manufactured property as a consumer) is subject to the manufacturing B&O tax classification. For further information about manufacturing activities, refer to WAC 458-20-112 (Value of products), WAC 458-20-134 (Commercial or industrial use), and WAC 458-20-136 (Manufacturing, processing for hire, fabricating).

(c) **Self-service copying.** Some persons provide consumers with access to duplicating equipment to make their own copies (frequently referred to "self-service copying"). These customers are generally charged on a per page basis. The gross proceeds of sales made to consumers for self-service copying is subject to the retailing B&O tax. The seller is also responsible for collecting retail sales tax, unless a specific exemption applies. In such cases, the person providing access to duplicating equipment is not engaged in a manufacturing activity and charges for self-service copying are not subject to the manufacturing B&O tax.

(d) **Potential litter tax liability.** Chapter 82.19 RCW imposes a litter tax on manufacturers (including duplicators), wholesalers, and retailers of certain products. These products include, but are not limited to, newspapers, magazines, and household paper and paper products. Thus, persons who duplicate

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tangible personal property for sale or who provide facilities for self-service copying may incur a litter tax liability. The measure of the litter tax is the gross proceeds of sale. For further information about the litter tax, refer to chapter 82.19 RCW and WAC 458-20-243 (Litter tax).

(e) **Purchases for resale.** The purchase of tangible personal property for resale as tangible personal property or as a component or ingredient of duplicated property is a purchase at wholesale. Examples of items that may be purchased at wholesale include paper, ink, toner, and staples. Refer to WAC 458-20-113 (Ingredients or components, chemicals used in processing new articles for sale). Wholesale purchases are not subject to retail sales tax when the buyer provides a resale certificate to the seller as provided by WAC 458-20-102 (Resale certificates).

(f) **Purchases subject to retail sales or use tax.** A person who engages in duplicating activities and acquires tangible personal property for use as a consumer must pay retail sale tax (commonly referred to as "deferred sales tax") or use tax directly to the department when the seller fails to collect retail sales tax. Examples of purchases by a person engaged in duplicating activities that are subject to retail sales tax or use tax include photocopiers, cutting boards, computers, cash registers, and office furniture. For further information about the use tax, refer to WAC 458-20-178 (Use tax).

Persons who engage in duplicating products for sale should refer to WAC 458-20-13601 (Manufacturers and processors for hire--Sales and use tax exemption for machinery and equipment) for information about the sales and use tax exemptions for certain machinery and equipment used directly in a manufacturing operation.

(g) **Example.** Copy Company provides a public area with photocopying equipment and materials (paper, toner, and staples) to allow customers to make their own copies. Copy Company has a separate area where Copy Company employees make copies for customers. The income attributable to copies made both by the customers and by Copy Company employees is subject to the retailing B&O and retail sales taxes. The value of the copies made by Copy Company employees is also subject to the manufacturing B&O tax, and Copy Company may claim a multiple

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activities tax credit as described above in subsection (2)(a). Litter tax may be due as explained above in subsection (2)(d).

Copy Company may purchase the paper, toner, and staples that are used or provided in both areas at wholesale, if the seller receives a resale certificate. Retail sales or use tax applies to the purchase of photocopying equipment in both areas. The purchase and/or use of the equipment where Copy Company employees make copies may qualify for the machinery and equipment exemption described in WAC 458-20-13601.

(3) **Mailing bureau services.** Mailing bureaus, also referred to as mail houses, prepare for distribution mail pieces such as bulletins, form letters, advertising material, political publications, and flyers as directed by their customers. The customer may provide the mail pieces to be prepared for distribution or the mailing bureau itself may sell the material to the customer. Mailing bureaus that duplicate the material being prepared should also refer to subsection (2), above. Mailing bureaus that print the material being prepared should also refer to WAC 458-20-144.

(a) **Mailing bureau activities.** Activities conducted by mailing bureaus include, but are not limited to, picking up, addressing, labeling, binding, folding, enclosing, sealing, tabbing, and mailing the mail pieces. The mailing bureau generally charges the customer on a per-piece basis for each separate service provided plus the actual cost of any postage.

Charges for labor and services rendered in respect to altering, imprinting, or improving tangible personal property of or for consumers are retail sales. RCW 82.04.050(2)(a). Thus, the retailing B&O tax applies to income received from consumers for services that include addressing, labeling, binding, folding, enclosing, sealing, and/or tabbing. Mailing bureau businesses are also responsible for collecting and remitting retail sales tax when making sales to consumers, unless a specific exemption applies.

(b) **Measure of tax.** The measure of the B&O and retail sales taxes is the gross proceeds of sale and selling price, respectively. These terms include all consideration paid by the buyer, however identified, without any deduction for costs of doing business, such as material, labor, and delivery costs. RCW 82.04.070 and 82.08.010.

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(i) **Postage.** Charges for postage or other delivery costs are included in the measure of tax for both B&O tax and retail sales tax if the costs are part of the consideration paid by the customer. It is immaterial if the amounts charged for postage are stated or shown separately on the sales invoice or reflect actual mailing costs to the mailing bureau. Amounts charged for postage and other delivery costs are not included in the measure of tax only if the amounts are not part of the consideration paid by the customer.

(A) **When is postage part of the consideration paid?** Charges for postage costs are considered part of the consideration paid if the permit to use precancelled stamps, a postage meter, or an imprint account for bulk mailings is in the name of the mailing bureau. The mailing bureau is liable to the post office for payment and the customer's payment of such amounts represents a payment on the sale of tangible personal property or the services provided. For further information, refer to WAC 458-20-111 (Advances and reimbursements).

(B) **When is postage not part of the consideration paid?** Charges for postage are not considered part of the consideration paid if the permit to use precancelled stamps or a permit imprint account for bulk mailings is in the customer's name. The mailing bureau in these cases has no primary or secondary liability for payment of the postage costs. (Refer to WAC 458-20-111 for information about advances and reimbursements.)

(ii) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of any situation must be determined after a review of all facts and circumstances. For purposes of the following examples, sales invoices to the customer separately identify charges for postage.

(A) **Example 1.** Mailing Bureau receives mail pieces from Department Store to prepare and mail. Mailing Bureau advises Department Store of the estimated amount of postage. Department Store deposits an amount equal to the estimated cost of postage in its own permit imprint account. The estimated postage is not part of the total consideration paid because the Department Store is personally liable to the post office for postage. The

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total charge, excluding postage, is the consideration paid by Department Store and subject to tax.

(B) **Example 2.** Assume facts as described above in Example 1. The post office determines that the actual cost of postage exceeds the estimated amount deposited by Department Store in its permit imprint account. Post office transfers the additional amount for postage from Mailing Bureau's account. Mailing Bureau invoices Department Store for the additional amount. The additional amount for postage is not part of the consideration paid and is not included in the measure of tax because Mailing Bureau's liability for payment of the additional postage is limited to that of an agent.

(C) **Example 3.** Mailing Bureau receives from Political Candidate B mail pieces to prepare and mail. Mailing Bureau uses its own postage meter to apply metered postage. Postage is a part of the consideration paid by Candidate B and is included in the measure of tax.

(D) **Example 4.** Mailing Bureau receives pre-stamped mail pieces from Medical Clinic to prepare and mail. The mail pieces qualify for the lower bulk mail rates after Mailing Bureau prepares the mail pieces. The post office refunds the difference between the single piece rate and the bulk mail rate to Mailing Bureau. Mailing Bureau retains the amount due for services rendered and in turn remits the balance of the refunded postage to Medical Clinic. Postage is not a part of the consideration paid and is not included in the measure of tax.

(E) **Example 5.** Mailing Bureau prints, prepares, and mails mail pieces for Non-Profit Organization's fundraising drive. Mailing Bureau applies metered postage using its own postage meter. The charge for postage is a part of the consideration paid and included in the measure of tax.

(F) **Example 6.** Mailing Bureau duplicates, prepares, and mails advertising for Restaurant. Mailing Bureau applies precancelled stamps that it purchases from the post office. The charge for postage is a part of the consideration paid and included in the measure of tax.

(G) **Example 7.** Mailing Bureau picks up mail pieces from Washington City to prepare and mail. Mailing Bureau applies metered postage using its own postage meter. The charge for

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postage is a part of the consideration paid by Washington City and included in the measure of tax.

(H) **Example 8.** Mailing Bureau prepares and mails advertising for Insurance Company. To apply postage, Mailing Bureau uses a postage meter leased by Insurance Company from a third party vendor. Insurance Company is liable to the third party vendor for payment of postage. The consideration does not include charges for postage.

(I) **Example 9.** Assume same facts as described in Example 8 above. The postage meter account contains insufficient funds required for mailing pieces. Mailing Bureau advances sufficient funds to Insurance Company's metering account. Mailing Bureau invoices Insurance Company for the additional amount. The consideration does not include postage because Mailing Bureau's liability for payment is limited to that of an agent.

(c) **Retail sales tax exemptions.** Certain sales tax exemptions may apply to the sale of tangible personal property or labor and services rendered to tangible personal property.

(i) **Interstate sales of tangible personal property.** The sale of tangible personal property is not subject to retail sales tax when the seller agrees to and does deliver the property outside the state. Refer to WAC 458-20-193 (Inbound and outbound interstate sales of tangible personal property) for further information about interstate sales.

(ii) **Labor and services rendered in respect to tangible personal property of or for a nonresident.** RCW 82.08.0265 provides a retail sales tax exemption for charges made for labor and services rendered in respect to any installing, repairing, cleaning, altering, or improving tangible personal property of or for a nonresident when the seller agrees to and does deliver the property to the purchaser at a point outside this state or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state. For further information about this exemption, refer to WAC 458-20-173 (Installing, cleaning, repairing or otherwise altering or improving personal property of consumers).

(d) **Purchases for resale.** The purchase of tangible personal property for resale as tangible personal property or to become a component or ingredient of property upon which mailing bureau services will be performed is a purchase at wholesale.

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Examples of items that may be purchased at wholesale include paper, printing ink, envelopes, and staples. Wholesale purchases are not subject to retail sales tax when the buyer provides a resale certificate to the seller as provided by WAC 458-20-102 (Resale certificates). Refer to WAC 458-20-113 (Ingredients or components, chemicals used in processing new articles for sale) for further information regarding ingredients and components.

(e) **Purchases subject to retail sales or use tax.** A mailing bureau business that purchases, leases, or otherwise acquires tangible personal property for use as a consumer must pay retail sale tax (commonly referred to as "deferred sales tax") or use tax directly to the department when the seller fails to collect the retail sales tax. Examples of such property include photocopiers, cutting boards, computers, office furniture, and equipment to address, label, fold, seal, insert, meter, stamp, or sort. For further information about the use tax, refer to WAC 458-20-178 (Use tax).

(f) **Purchases of mailing lists.** Persons acquiring mailing lists are purchasing an information service regardless of the medium used to provide or transfer the information. Thus, the purchase of a mailing list by a mailing bureau business is not subject to either retail sales or use tax.