

This rule was adopted on June 30, 2005, and becomes effective July 31, 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 WSR 94-11-097, filed 5/17/94, effective 6/17/94.)

WAC 458-20-168 Hospitals, ((~~medical care facilities, and~~) nursing homes, boarding homes, adult family homes, and similar health care facilities. (1) **Introduction.** ((This section provides tax reporting information to persons operating hospitals, medical care facilities, and adult family homes. It includes tax reporting changes resulting from the passage of chapter 25, Laws of 1993 sp.s. which affected nonprofit hospitals and hospitals operated by political subdivisions of the state.

(2) Definitions.

(a) The term "hospital" means only institutions defined as hospitals in chapter 70.41 RCW. The term includes privately owned and operated hospitals, hospitals operated as nonprofit corporations, hospitals operated by political subdivisions of the state, and hospitals operated by the state but not owned by the state.

(b) The term "nursing home" means only institutions defined as nursing homes in chapter 18.51 RCW.

(c) The term "adult family home" means private homes licensed by the department of social and health services as adult family homes (see WAC 388-76-030(2)), and those which are specifically exempt from licensing under the rules of the department of social and health services. (See WAC 388-76-140.)

(3) Business and occupation (B&O) tax. The sale of tangible personal property which is not part of the medical service being provided to a patient is taxable under the retailing B&O tax classification. There are two B&O tax classifications which can apply to persons providing medical services through the operation of a hospital, with the tax classification dependent on the organizational structure of the hospital. The B&O tax classifications are:

(a) ~~Public or nonprofit hospitals. This B&O tax classification applies to gross income derived from personal and professional services to patients by hospitals that are operated as nonprofit corporations, operated by political subdivisions of the state, or operated but not owned by the state. These hospitals became taxable for hospital services under this B&O tax classification on July 1, 1993. These hospitals were required to report under the service B&O tax classification prior to July 1, 1993, but were entitled to a deduction for services rendered to patients.~~

~~(b) Service. The gross income derived from personal and professional services of hospitals (other than hospitals operated as nonprofit corporations or by political subdivisions of the state), nursing homes, convalescent homes, clinics, rest homes, health resorts, and similar health care institutions is subject to business and occupation tax under the service and other activities classification. This classification also applies to nonprofit hospitals for personal or professional services which are performed for persons other than patients and not otherwise tax classified.~~

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~~(c) Retailing. The retailing business and occupation tax applies to sales by such persons of tangible personal property sold and billed separately from services rendered. However, this does not include charges to patients for tangible personal property which is used in providing medical services to a patient, even if separately billed. Tangible personal property which is used in providing medical services is not considered to have been sold separately from the medical services simply because those items are separately invoiced. These charges, even if separately itemized, are for providing medical services and are taxable under either the "public or nonprofit hospital" classification or the "service and other business activities" classification, depending on the type of organization making the sale. However, making copies of medical records is considered to be a separate activity from that of providing medical services and any income from this activity is subject to the retailing tax and the retail sales tax.~~

~~(d) Research and development. There is a separate tax classification which applies to nonprofit corporations and nonprofit associations for income received in performing research and development. See RCW 82.04.260(6).~~

~~(4) Exemptions and deductions. The following exemptions and deductions apply:~~

~~(a) Adult family homes. The gross income derived from personal and professional services of adult family homes which are licensed as such, or which are specifically exempt from licensing under the rules of the department of social and health services, is exempt from the business and occupation tax effective June 9, 1987.~~

~~(b) State-owned hospitals. The gross income from a hospital owned by the state of Washington is not subject to B&O tax. (Refer to WAC 458-20-189.) This exemption does not include hospital districts or hospitals which are operated by or for political subdivisions of the state, such as a county government.~~

~~(c) Kidney dialysis facilities, certain nursing homes, certain homes for unwed mothers. Nonprofit organizations operating kidney dialysis facilities, homes for unwed mothers where the operating organization is also a religious or charitable organization, and nonprofit nursing homes are exempt from B&O tax on the services they provide to patients or from the sales of prescription drugs. (See WAC 458-20-18801.) However, the exemption applies only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder. The deduction for income from the operation of kidney dialysis facilities is available to nonprofit hospitals if the hospital accurately identifies and accounts for the income from this activity.~~

~~(d) Contributions, donations and endowment funds. Amounts received as contributions, donations and endowment funds may be excluded from gross income, provided that no specific service is performed as a condition for receiving the funds. Amounts received as grants are taxable if specific services are performed as a condition for receiving the grant. (See WAC 458-20-114.)~~

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~~(e) Health and social welfare services. Refer to WAC 458-20-169 for health and welfare services which may be deductible.~~

~~(5) **Adjustments to revenues.** Many hospitals will perform charity care where medical care is given without charge or some portion of a charge will be cancelled. In other cases, medical care is billed to patients at "standard" rates, but later adjusted to reduce the charges to the rates established by contract with Medicare, Medicaid, or with private insurers. In these situations the hospital must initially include the total charges as billed to the patient as gross income unless the hospital's records clearly indicate the amount of income to which it will be entitled under its contracts with insurance carriers. Where tax returns are initially filed based on gross charges, an adjustment may be taken at the time of filing future tax returns after the hospital has adjusted its records to reflect the actual amounts collected. In no event may the hospital reduce its current revenue by amounts which were not previously included in the taxable base. If the tax rate changes from the time the B&O tax was first paid on the gross charges and the time of the adjustment, the hospital must file amended tax returns to report the B&O tax on the transaction as finally completed at the rate in effect at the time the service was performed.~~

~~(6) **Retail sales tax.** Retail sales which are subject to retailing business tax, as provided earlier, are also subject to retail sales tax. These businesses are required to pay retail sales tax on purchases of medical supplies, durable equipment, and consumables. (For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)~~

~~(7) **Retail sales and use tax exemptions.** The following exemptions from the retail sales and use tax apply:~~

~~(a) Effective on May 6, 1993, all items which are reasonably necessary for the operation of free hospitals may be purchased without payment of retail sales or use tax. This includes all supplies and equipment. It also includes any items which are used in providing health care. "Free hospitals" means a hospital that does not charge patients for health care provided by the hospital. (Refer to chapter 205, Laws of 1993.)~~

~~(b) Sales of drugs, medicines, prescription lenses, orthotic devices, medical oxygen, or other substances, prescribed by medical practitioners are exempt of retail sales tax where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained. Sales of prosthetic devices, hearing aids as defined in RCW 18.35.010(3), and ostomic items whether or not prescribed are also exempt of sales tax. See WAC 458-20-18801.) This rule explains the application of business and occupation (B&O), retail sales, and use taxes to persons operating hospitals as defined in RCW 70.41.020, nursing homes as defined in RCW 18.51.010, boarding homes as defined in RCW 18.20.020, adult family homes as defined in RCW 70.128.010, and similar health care facilities.~~

The department of revenue (department) has adopted other rules dealing with the taxability of various activities relating to the provision of health care. Readers may want to refer to the following rules for additional information:

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(a) WAC 458-20-150 (Optometrists, ophthalmologists, and opticians);

(b) WAC 458-20-151 (Dentists and other health care providers, dental laboratories, and dental technicians);

(c) WAC 458-20-18801 (Prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen); and

(d) WAC 458-20-233 (Tax liability of medical and hospital service bureaus and associations and similar health care organizations).

(2) Personal and professional services of hospitals, nursing homes, boarding homes, and similar health care facilities. This subsection provides information about the application of B&O tax to the personal and professional services of hospitals, nursing homes, boarding homes, and similar health care facilities. For information regarding B&O tax deductions and exemptions for persons operating health care facilities, readers should refer to subsection (3) of this rule.

(a) Public or nonprofit hospitals. The gross income of public or nonprofit hospitals derived from providing personal or professional services to inpatients, is subject to B&O tax under the public or nonprofit hospitals classification. RCW 82.04.260. For the purpose of this rule, "public or nonprofit hospitals" are hospitals, as defined in RCW 70.41.020, operated as nonprofit corporations, operated by political subdivisions of the state (e.g., a hospital district operated by a county government), or operated by but not owned by the state.

Gross income of public or nonprofit hospitals derived from providing personal or professional services for persons other than inpatients is generally subject to B&O tax under the service and other activities classification. RCW 82.04.290. Thus, for example, amounts received for services provided to outpatients, income received for providing nonmedical services, interest received on patient accounts receivable, and amounts received for providing transcribing services to physicians are subject to service and other activities B&O tax.

(i) Clinics and departments operated by public or nonprofit hospitals. Gross income derived from medical clinics and departments providing services to both inpatients and outpatients and operated by a public or nonprofit hospital is subject to B&O tax under the public or nonprofit hospitals classification where the clinic or department is an integral, interrelated, and essential part of the hospital. Otherwise, the gross income derived from medical clinics and departments providing services to both inpatients and outpatients and operated by a public or nonprofit hospital is subject to B&O tax under the service and other activities classification.

Relevant factors for determining whether a medical clinic or department operated by a public or nonprofit hospital is an integral, interrelated, and essential part of the hospital include whether the clinic or department is located at the hospital facility and whether the clinic or department furnishes the type of services normally provided by hospitals, such as 24-hour intake and emergency services.

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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 status of each situation must be determined after a review of all of the facts and circumstances.

(A) Acme Hospital is a nonprofit hospital. Acme has a medical clinic that is separate but physically located within the hospital. However, the clinic is open only during regular business hours and provides no domiciliary care or overnight facilities to its patients. The clinic is staffed, equipped, administered, and provides the type of medical services that one would expect to receive in the average physician's office. Acme's medical clinic is not an integral, interrelated, and essential part of Acme Hospital. Gross receipts by the medical clinic are subject to service and other activities B&O tax.

(B) Acme Hospital is a nonprofit hospital. Acme has a cancer treatment facility that is physically located within the hospital. The cancer treatment facility provides the type of services normally provided by hospitals to cancer patients. Acme's cancer treatment facility is an integral, interrelated, and essential part of Acme Hospital. Gross receipts by the cancer treatment facility are subject to public or nonprofit hospitals B&O tax.

(ii) **Educational programs and services.** Amounts received by public or nonprofit hospitals for providing educational programs and services to the general public are subject to B&O tax under the public or nonprofit hospitals classification if they are an integral, interrelated, and essential part of the hospital. Otherwise, such amounts are subject to B&O tax under the service and other activities classification. Educational services are considered an integral, interrelated, and essential part of the hospital only if they are unique and incidental to the provision of hospitalization services (i.e., services that will be, have been, or are currently being provided to the participants). Only those educational programs and services offered by a hospital that would be very difficult or impossible to duplicate by a person other than a hospital because of the specialized body of knowledge, facilities, and equipment required are unique and incidental to the provision of hospitalization services. Amounts derived from educational programs and services are subject to service and other activities B&O tax when the educational programs or services could be provided by any physician, clinic, or trained lay person.

(b) **Other hospitals, nursing homes, and similar health care facilities.** The gross income derived from personal and professional services of hospitals, clinics, nursing homes, and similar health care facilities, other than public or nonprofit hospitals described above in subsection (2)(a) and hospitals owned by the state, is subject to service and other activities B&O tax. The gross income received by the state of Washington from operating a hospital or other health care facility, whether or not the hospital or other facility is owned by the state, is not subject to B&O tax. Nursing homes should refer to subsection (6) of this rule for information regarding the quality maintenance fee imposed under chapter 82.71 RCW.

The following definitions apply for purposes of this rule:

(i) "Hospital" has the same meaning as in RCW 70.41.020; and

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(ii) "Nursing home" has the same meaning as in RCW 18.51.010.

(c) **Boarding homes.** Effective July 1, 2004, persons operating boarding homes licensed under chapter 18.20 RCW are entitled to a preferential B&O tax rate. See RCW 82.04.2908. Persons operating licensed boarding homes should report their gross income derived from providing room and domiciliary care to residents under the licensed boarding homes B&O tax classification. For the purpose of this rule, "boarding home" and "domiciliary care" have the same meaning as in RCW 18.20.020. Refer to subsection (3)(h) of the rule for B&O tax deductions and exemptions available to boarding homes.

(d) **Nonprofit corporations and associations performing research and development.**

There is a separate B&O tax rate that applies to nonprofit corporations and nonprofit associations for income received in performing research and development within this state, including medical research. See RCW 82.04.260.

(e) **Can a nursing home or boarding home claim a B&O tax exemption for the rental of real estate?** The primary purpose of a nursing home is to provide medical care to its residents. The primary purpose of boarding homes is to assume general responsibility for the safety and well-being of its residents and to provide other services to residents such as housekeeping, meals, laundry, and activities. Boarding homes may also provide residents with assistance with activities of daily living, health support services, and intermittent nursing services. Because the primary purpose of nursing homes and boarding homes is to provide services and not to lease or rent real property, no part of the gross income of a nursing home or boarding home may be exempted from B&O tax as the rental of real estate.

(f) **Adjustments to revenues.** Many hospitals will provide medical care without charge or where some portion of the charge will be canceled. In other cases, medical care is billed to patients at "standard" rates but is later adjusted to reduce the charges to the rates established by contract with Medicare, Medicaid, or private insurers. In these situations the hospital must initially include the total charges as billed to the patient as gross income unless the hospital's records clearly indicate the amount of income to which it will be entitled under its contracts with insurance carriers. Where tax returns are initially filed based on gross charges, an adjustment may be taken on future tax returns after the hospital has adjusted its records to reflect the actual amounts collected. In no event may the hospital reduce the amount of its current gross income by amounts that were not previously reported on its excise tax return. If the tax rate changes from the time the B&O tax was first paid on the gross charges and the time of the adjustment, the hospital must file amended tax returns to report the B&O tax on the transaction as finally completed at the rate in effect when the service was performed.

(g) **What are the tax consequences when a hospital contracts with an independent contractor to provide medical services at the hospital?** When a hospital contracts with an independent contractor (service provider) to provide medical services such as managing and staffing the hospital's emergency department, the hospital may not deduct the amount paid to the

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service provider from its gross income. If, however, the patients are alone liable for paying the service provider, and the hospital has no personal liability, either primarily or secondarily, for paying the service provider, other than as agent for the patients, then the hospital may deduct from its gross income amounts paid to the service provider.

In addition, the service provider is subject to service and other activities B&O tax on the amount received from the hospital for providing these services for the hospital. If the service provider subcontracts with third parties, such as physicians or nurses, to help provide medical services as independent contractors, the service provider may not deduct from its gross income amounts paid to the subcontractors where the service provider is personally liable, either primarily or secondarily, for paying the subcontractors. If, however, the hospital is alone liable for paying the subcontractors, and the service provider has no personal liability, either primarily or secondarily, other than as agent for the hospital, then the service provider may deduct from its gross income amounts paid to the subcontractors. For additional information regarding deductible advances and reimbursements, refer to WAC 458-20-111 (Advances and reimbursements).

(3) B&O tax deductions and exemptions. This subsection provides information about several B&O tax deductions and exemptions available to persons operating medical or other health care facilities.

(a) Organ procurement organizations. Amounts received by a qualified organ procurement organization under 42 U.S.C. Sec. 273(b) in effect as of January 1, 2001, to the extent that the amounts are exempt from federal income tax, are exempt from B&O tax. RCW 82.04.326. This exemption is effective March 22, 2002.

(b) Contributions, donations, and endowment funds. A B&O tax deduction is provided by RCW 82.04.4282 for amounts received as contributions, donations, and endowment funds, including grants, which are not in exchange for goods, services, or business benefits. For example, B&O tax deduction is allowed for donations received by a public hospital, as long as the donors do not receive any goods, services, or any business benefits in return. On the other hand, a public hospital is not allowed to take a B&O tax deduction on amounts received from a state university for work-study programs or training seminars for doctors, because the university receives business benefits in return, as students receive education and training while enrolling the university's degree programs.

The deductible amounts should be included in the gross income reported on the excise tax return and then deducted on the return to determine the amount of taxable income. Deductions taken must be identified on the appropriate deduction detail page of the excise tax return.

(c) Adult family homes. The gross income derived from personal and professional services of adult family homes licensed by the department of social and health services (DSHS), or which are specifically exempt from licensing under the rules of DSHS, is exempt from B&O

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tax under RCW 82.04.327. The exemption under RCW 82.04.327 does not apply to persons who provide home care services to clients in the clients' own residences.

For the purpose of this rule, "adult family home" has the same meaning as in RCW 70.128.010.

(d) Nonprofit kidney dialysis facilities, hospice agencies, and certain nursing homes and homes for unwed mothers. B&O tax does not apply to amounts received as compensation for services rendered to patients or from sales of drugs for human use pursuant to a prescription furnished as an integral part of services rendered to patients by kidney dialysis facilities operated as a nonprofit corporation, nonprofit hospice agencies licensed under chapter 70.127 RCW, and nursing homes and homes for unwed mothers operated as religious or charitable organizations. RCW 82.04.4289. This exemption applies only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to this exemption. This exemption is available to nonprofit hospitals for income from the operation of kidney dialysis facilities if the hospital accurately identifies and accounts for the income from this activity.

Examples of nursing homes and homes for unwed mothers operated as religious or charitable organizations include nursing homes operated by church organizations or by nonprofit corporations designed to assist alcoholics in recovery and rehabilitation. Nursing homes and homes for unwed mothers operated by governmental entities, including public hospital districts, do not qualify for the B&O tax exemption provided in RCW 82.04.4289.

(e) Government payments made to health or social welfare organizations. A B&O tax deduction is provided by RCW 82.04.4297 to a health or social welfare organization, as defined in RCW 82.04.431, for amounts received directly from the United States, any instrumentality of the United States, the state of Washington, or any municipal corporation or political subdivision of the state of Washington as compensation for health or social welfare services. A deduction is not allowed, however, for amounts that are received under an employee benefit plan. The deductible amounts should be included in the gross income reported on the excise tax return and then deducted on the tax return to determine the amount of taxable income. Deductions taken must be identified on the appropriate deduction detail page of the excise tax return. Readers should refer to WAC 458-20-169 (Nonprofit organizations) for additional information regarding this deduction.

For purposes of the deduction provided by RCW 82.04.4297, "employee benefit plan" includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the Internal Revenue Code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law.

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(f) Amounts received under a health service program subsidized by federal or state government. A public hospital that is owned by a municipal corporation or political subdivision, or a nonprofit hospital, or a nonprofit community health center, or a network of nonprofit community health centers, that qualifies as a health and social welfare organization as defined in RCW 82.04.431, may deduct from the measure of B&O tax amounts received as compensation for health care services covered under the federal Medicare program authorized under Title XVIII of the federal Social Security Act; medical assistance, children's health, or other program under chapter 74.09 RCW; or for the state of Washington basic health plan under chapter 70.47 RCW. RCW 82.04.4311. This deduction applies to amounts received directly or through a third party from the qualified programs or plans. However, this deduction does not apply to amounts received from patient copayments or patient deductibles. The deductible amounts should be included in the gross income reported on the excise tax return and then deducted on the return to determine the amount of taxable income. Deductions taken must be identified on the appropriate deduction detail page of the excise tax return.

For purposes of the deduction provided by RCW 82.04.4311, "community health center" means a federally qualified health center as defined in 42 U.S.C. Sec. 1396d as existed on August 1, 2005.

(i) Effective date of deduction. The deduction for a public hospital owned by a municipal corporation or political subdivision and for a nonprofit hospital is effective April 2, 2002. Taxpayers who have paid B&O taxes between January 1, 1998, and April 2, 2002, on amounts that would qualify for this deduction are entitled to a refund. In addition, tax liability for accrued but unpaid taxes that would be deductible under this subsection (3)(f) are waived. For information regarding refunds, refer to WAC 458-20-229 (Refunds).

The deduction for a nonprofit community health center or a network of nonprofit community health centers is effective August 1, 2005.

(ii) Example. Acme Hospital is a nonprofit hospital that qualifies as a health and social welfare organization as defined in RCW 82.04.431. Acme receives \$1,000 for providing health care services to Jane, who qualifies for the federal Medicare program authorized under Title XVIII of the federal Social Security Act. Jane is covered in a health care plan that is a combination of Medicare, which is B&O tax deductible by Acme, and a Medicare plus plan, which is paid for by Jane and is not B&O tax deductible by Acme. Jane pays \$20 to Acme as patient copayments. Medicare pays \$600 to Acme for the health care services, and the Medicare plus plan pays \$380. Acme may only deduct the \$600 received from Medicare.

(g) Blood and tissue banks. Amounts received by a qualifying blood bank, a qualifying tissue bank, or a qualifying blood and tissue bank are exempt from B&O tax to the extent the amounts are exempt from federal income tax. RCW 82.04.324. For the purposes of this exemption, the following definitions apply:

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(i) **Qualifying blood bank.** "Qualifying blood bank" means a blood bank that qualifies as an exempt organization under 26 U.S.C. 501 (c)(3) as existing on June 10, 2004, is registered under 21 C.F.R., part 607 as existing on June 10, 2004, and whose primary business purpose is the collection, preparation, and processing of blood. "Qualifying blood bank" does not include a comprehensive cancer center that is recognized as such by the National Cancer Institute.

(ii) **Qualifying tissue bank.** "Qualifying tissue bank" means a tissue bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered under 21 C.F.R., part 1271 as existing on June 10, 2004, and whose primary business purpose is the recovery, processing, storage, labeling, packaging, or distribution of human bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, heart valve tissue, or human eye tissue. "Qualifying tissue bank" does not include a comprehensive cancer center that is recognized as such by the National Cancer Institute.

(iii) **Qualifying blood and tissue bank.** "Qualifying blood and tissue bank" is a bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered under 21 C.F.R., Part 607 and Part 1271 as existing on June 10, 2004, and whose primary business purpose is the collection, preparation, and processing of blood, and the recovery, processing, storage, labeling, packaging, or distribution of human bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, and heart valve tissue. "Qualifying blood and tissue bank" does not include a comprehensive cancer center that is recognized as such by the National Cancer Institute.

(h) **Boarding homes.** Effective July 1, 2004, licensed boarding home operators are entitled to a B&O tax deduction for amounts received as compensation for providing adult residential care, enhanced adult residential care, or assisted living services under contract with the department of social and health services authorized by chapter 74.39A RCW to residents who are Medicaid recipients. RCW 82.04.4337. For the purpose of this rule, "adult residential care," "enhanced adult residential care," and "assisted living services" have the same meaning as in RCW 74.39A.009.

Effective July 1, 2005, B&O tax does not apply to the amounts received by a nonprofit boarding home licensed under chapter 18.20 RCW for providing room and domiciliary care to residents of the boarding home. Chapter 514, Laws of 2005. For purposes of this rule, "nonprofit boarding home" means a boarding home that is operated as a religious or charitable organization, is exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3), is incorporated under chapter 24.03 RCW, is operated as part of a nonprofit hospital, or is operated as part of a public hospital district.

(i) **Comprehensive cancer centers.** Effective July 1, 2006, B&O tax does not apply to the amounts received by a comprehensive cancer center to the extent the amounts are exempt from federal income tax. Chapter 514, Laws of 2005. For purposes of this rule, "comprehensive cancer center" means a cancer center that has written confirmation that it is recognized by the

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National Cancer Institute as a comprehensive cancer center and that qualifies as an exempt organization under 26 U.S.C. Sec. 501(c)(3) as existing on July 1, 2006.

(4) **Sales of tangible personal property.** Retailing B&O tax applies to sales of tangible personal property sold and billed separately from the performance of personal or professional services by hospitals, nursing homes, boarding homes, adult family homes, and similar health care facilities. This includes charges for making copies of medical records. In addition, retail sales tax must be collected from the buyer and remitted to the department unless the sale is specifically exempt by law.

(a) **Tangible personal property used in providing medical services to patients.** Retailing B&O and retail sales taxes do not apply to charges to a patient for tangible personal property used in providing medical services to the patient, even if separately billed. Tangible personal property used in providing medical services is not considered to have been sold separately from the medical services simply because those items are separately invoiced. These charges, even if separately itemized, are for providing medical services and are subject to B&O tax under either the public or nonprofit hospital B&O tax classification or the service and other activities classification depending on the person making the charge. For example, charges for drugs physically administered by the seller are subject to B&O tax under either the public or nonprofit hospital classification or the service and other activities classification depending on the person making the charge. On the other hand, charges for drugs sold to patients or their caregivers, either for patient self-administration or administration by a caregiver other than the seller, are subject to retailing B&O tax and retail sales tax unless specifically exempt by law. Readers should refer to WAC 458-20-18801 for detailed information regarding retail sales tax exemptions that apply to sales of prescription drugs and other medical items.

(b) **Sales of meals.** Although the sale of meals is generally considered to be a retail sale, hospitals, nursing homes, boarding homes, and similar health care facilities that furnish meals to patients or residents as a part of the services provided to those patients or residents are not considered to be making retail sales of meals. Thus amounts received by hospitals, nursing homes, boarding homes, and similar health care facilities for furnishing meals to patients or residents as part of the services provided to those patients or residents are subject to B&O tax under the service and other activities, public or nonprofit hospital, or licensed boarding homes classifications, depending upon the person furnishing the meals.

Prepared meals sold to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW are exempt from retail sales and use taxes. RCW 82.08.0293 and 82.12.0293. The exemptions apply to sales of prepared meals to not-for-profit organizations organized under chapter 24.03 or 24.12 RCW, that provide the meals to senior citizens, disabled persons, or low-income persons as a part of the patient services they render.

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Hospitals, nursing homes, boarding homes, and similar health care facilities may have restaurants, cafeterias, or other dining facilities where meals are sold for cash or credit to doctors, nurses, other employees, and visitors. Some of these facilities may provide meals to their employees at no charge. Under these circumstances, all sales of meals to such persons are subject to retailing B&O and retail sales taxes, including the value of meals provided at no charge to employees. For additional information regarding the sale of meals, including meals furnished to employees, refer to WAC 458-20-119 (Sales of meals). Hospitals, nursing homes, boarding homes, and similar health care facilities that provide free meals to persons other than employees, such as visitors, should refer to WAC 458-20-124 (Restaurants, cocktail bars, taverns and similar businesses) for information about the taxability of meals given away free of charge.

(c) Sales of medical supplies, chemicals, or materials to a comprehensive cancer center. Effective July 1, 2006, sales of medical supplies, chemicals, or materials to a comprehensive cancer center are exempt from retail sales and use tax. Chapter 514, Laws of 2005. This exemption, however, does not apply to the sales of construction materials, office equipment, building equipment, administrative supplies, or vehicles.

(i) Medical supplies. For purposes of this exemption, "medical supplies" means any item of tangible personal property, including any repair and replacement parts for such tangible personal property, used by a comprehensive cancer center for the purpose of performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue. The term includes tangible personal property used to:

(A) Provide preparatory treatment of blood, bone, or tissue;

(B) Control, guide, measure, tune, verify, align, regulate, test, or physically support blood, bone, or tissue; and

(C) Protect the health and safety of employees or others present during research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(ii) Chemicals. For purposes of this exemption, "chemical" means any catalyst, solvent, water, acid, oil, or other additive that physically or chemically interacts with blood, bone, or tissue.

(iii) Materials. For purposes of this exemption, "materials" means any item of tangible personal property, including, but not limited to, bags, packs, collecting sets, filtering materials, testing reagents, antisera, and refrigerants used or consumed in performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(iv) Research. For purposes of this exemption, "research" means basic and applied research that has as its objective the design, development, refinement, testing, marketing, or commercialization of a product, service, or process.

(5) Equipment and supplies used by health care providers. Hospitals, nursing homes, adult family homes, boarding homes, and similar health care providers are required to pay retail sales tax on purchases of equipment and supplies unless specifically exempt by law. Readers

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should refer to WAC 458-20-18801 for detailed information regarding exemptions that are available to these health care providers, as well as persons performing medical research and organ procurement organizations.

(a) **Purchases for resale.** Purchases of tangible personal property for resale without intervening use are not subject to retail sales tax. Persons purchasing tangible personal property for resale must furnish a properly completed resale certificate to the seller to document the wholesale nature of the sale. Resale certificates may be obtained from the department's website at <http://dor.wa.gov>, or by calling the department's taxpayer information center at 1-800-647-7706. For additional information regarding resale certificates, refer to WAC 458-20-102 (Resale certificates).

(b) **Buyer's responsibility to remit deferred sales or use tax.** If the seller does not collect retail sales tax on a retail sale, the buyer 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. For detailed information regarding the use tax, refer to WAC 458-20-178 (Use tax).

(i) **How do I report deferred sales or use tax.** Persons registered with the department and required to file tax returns should report deferred sales or use tax on their excise tax return. The excise tax return does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax liability should be reported on the use tax line of the buyer's excise tax return. If a deferred sales tax or use tax liability is incurred by a person who is not required to obtain a tax registration endorsement from the department, the person must report the tax on a "Consumer Use Tax Return" and remit the appropriate tax to the department.

(ii) **Where can I obtain a Consumer Use Tax Return?** The Consumer Use Tax Return may be obtained from the department's website at: <http://dor.wa.gov>, or by calling the department's telephone information center at 1-800-647-7706.

(6) **Quality maintenance fee imposed on nursing homes.** Beginning July 1, 2003, RCW 82.71.020 imposes a quality maintenance fee on every nursing home in this state not exempt from the fee under RCW 74.46.091. Quality maintenance fee, however, is not imposed after July 1, 2011. The amount of the quality maintenance fee is in addition to any other tax imposed upon nursing homes. Nursing homes must report the number of patient days and remit the fee to the department on a monthly basis. Persons with questions about how the quality maintenance fee may affect individual nursing home operators or about the exemption provided by RCW 74.46.091 should contact the department of social and health services.

For purposes of this rule, "patient day" means a calendar day of care provided to a nursing home resident, excluding a Medicare patient day. Patient days include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. "Medicare patient day" means a patient

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day for Medicare beneficiaries on a Medicare Part A stay and a patient day for persons who have opted for managed care coverage using their Medicare benefit.