

Appendix C – Laws, Rules, & Other Guidance for the Staffing Industry

| Law | Rules | Other Guidance | Worker Category | Comments |
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| RCW 82.04.220: Business and occupation tax imposed | | | | |
| <p>There is levied and shall be collected from every person a tax for the act or privilege of engaging in business activities. Such tax shall be measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be.</p> | | <p>ETA 2016.04.111 Temporary Staffing Companies</p> | | <p>Staffing businesses provide temporary workers. Workers are employees of the staffing business rather than the client. A staffing business is engaged in the same activities as those performed by the employees they provide.</p> <p>The applicable B&O tax classification is determined by the nature of the activities performed by the employee and the statutory requirements of the specific classification.</p> |
| RCW 82.04.070: Gross proceeds of sales | | | | |
| <p>“Gross proceeds of sales” means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.</p> | <p>WAC 458-20-111 (Advances and reimbursements)</p> | <p><i>City of Tacoma v. William Rogers Co.</i>, 149 Wn.2d 169, 60 P.3d 79 (2002).</p> <p>ETA 2016.04.111 Temporary Staffing Companies</p> | | <p>Staffing businesses that have any liability to the worker for payment may not exclude amounts received for payroll expenses (wages, taxes, benefits, etc.) from the measure of tax.</p> |
| RCW 82.04.080: Gross income of the business | | | | |
| <p>“Gross income of the business” means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.</p> | <p>WAC 458-20-111 (Advances and reimbursements)</p> | <p><i>City of Tacoma v. William Rogers Co.</i>, 149 Wn.2d 169, 60 P.3d 79 (2002).</p> <p>ETA 2016.04.111 Temporary Staffing Companies</p> | | <p>Staffing businesses that have any liability to the worker for payment may not exclude amounts received for payroll expenses (wages, taxes, benefits, etc.) from the measure of tax.</p> |

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RCW 82.04.090: Value proceeding or accruing

“Value proceeding or accruing” means the consideration, whether money, credits, rights, or other property expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. However, persons operating grain warehouses licensed under chapter 22.09 RCW may elect to report the value proceeding or accruing from grain warehouse operations on either a cash receipts or accrual basis. The department of revenue may provide by regulation that the value proceeding or accruing from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due.

WAC 458-20-111
(Advances and reimbursements)

City of Tacoma v. William Rogers Co., 149 Wn.2d 169, 60 P.3d 79 (2002).

ETA 2016.04.111
Temporary Staffing Companies

Staffing businesses that have any liability to the worker for payment may not exclude amounts received for payroll expenses (wages, taxes, benefits, etc.) from the measure of tax.

RCW 82.04.190: Consumer

“Consumer” means the following: (1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person’s business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or uses any telephone service as defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2)(a) or any amusement and recreation service defined in RCW 82.04.050(3)(a), other than for resale in the regular course of business; and (d) any person who is an end user of software;

When the activities performed are defined as retail sales, the requirement to collect retail sales tax turns on whether the staffing business makes sales to a consumer. Sales of tangible personal property and certain services to consumers are retail sales. Sales of tangible personal property and services defined as retail sales are wholesales sales when the sales are made to persons who are not consumers.

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right of way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of “consumer”;

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person shall be a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person, except that consumer does not include any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, or any instrumentality thereof, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity;

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RCW 82.94.190: Consumer *(continued)*

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section shall be construed to modify any other definition of “consumer”; and

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

RCW 82.04.250: Tax on retailers

Expires July 1, 2006.¹

(1) Upon every person except persons taxable under RCW 82.04.260(5), 82.04.272, or subsection (2) or (3) of this section engaging within this state in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263 except as provided in subsection (3) of this section, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent

(3) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, that is classified by the federal aviation administration as a FAR part 145 certificated repair station with airframe and instrument ratings and limited ratings for nondestructive testing, radio, Class 3 Accessory, and specialized services, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of .275 percent.

Retailing B&O tax rate is 0.00471.

Staffing businesses that provide employees to perform activities defined as retail sales are subject to the retailing B&O tax.

Staffing businesses that provide cashiers to retailers are taxable under service and other activities classification rather than the retailing classification. The staffing business is not making retail sales because the temporary staffing business does not have ownership of, title to, or possession of the property being sold. See RCW 82.04.040

1. Preferential retailing rate for certain activities conducted by FAR part 145 certified repair stations expires July 1, 2006.

RCW 82.04.050: Sale at retail, retail sale

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

(a) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(b) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(c) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(d) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280 (2) and (7), 82.04.290, and 82.04.2908

- Technician specialties associated with cleaning, altering, repairing, or otherwise improving machinery and equipment
- Construction workers - skilled
- Construction workers - unskilled
- Construction clean-up
- Landscape worker
- Demolition
- Installation of tangible personal property
- Assembly for persons other than manufacturers

A staffing business that provides an employee to perform activities defined as retail sales is subject to the retailing B&O tax classification.

The Department presumes that charges for activities defined as retail sales are made to consumers unless the seller receives a resale certificate from the buyer. Refer to RCW 82.04.470

Excludes purchases for resale when buyer provides a resale certificate. (See RCW 82.04.060 "Sale at wholesale," "wholesale sale.")

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| <p>RCW 82.04.050: Sale at retail, retail sale <i>(continued)</i></p> | <p>(2) The term “sale at retail” or “retail sale” shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:</p> <p>(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;</p> <p>(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;</p> <p>(c) The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;</p> <p>(d) The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term “janitorial services” shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term “janitorial services” does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;</p> <p>(e) The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;</p> | <p>WAC 458-20-173 (Installing, cleaning, repairing or otherwise altering or improving personal property of consumers)</p> <p>WAC 458-20-170 (Constructing and repairing of new or existing buildings or other structures upon real property)</p> <p>WAC 458-20-174 (Clearing land, moving earth, cleaning, fumigating, razing or moving existing buildings, and janitorial services)</p> <p>WAC 458-20-129 (Gasoline service stations)</p> | | |

(f) The sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), (e), and (f) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a “sale at retail” or “retail sale” even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section shall be construed to modify this subsection.

(3) The term “sale at retail” or “retail sale” shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers;

(b) Abstract, title insurance, and escrow services;

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

(e) Landscape maintenance and horticultural services but excluding

(i) horticultural services provided to farmers and

(ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

WAC 458-20-166

(Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.)

WAC 458-20-183

(Amusement, recreation, and physical fitness services)

WAC 458-20-156

(Abstract, title insurance and escrow businesses)

WAC 458-20-129

(Gasoline service stations)

WAC 458-20-226

(Landscape and horticultural services)

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| <p>RCW 82.04.050: Sale at retail, retail sale <i>(continued)</i></p> <p>(f) Service charges associated with tickets to professional sporting events; and</p> <p>(g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.</p> <p>(4)(a) The term shall also include:</p> <p>(i) The renting or leasing of tangible personal property to consumers; and</p> <p>(ii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (4)(a)(ii), an operator must do more than maintain, inspect, or set up the tangible personal property.</p> <p>(b) The term shall not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.</p> <p>(5) The term shall also include the providing of telephone service, as defined in RCW 82.04.065, to consumers.</p> <p>(6) The term shall also include the sale of prewritten computer software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user, but shall not include custom software or the customization of prewritten computer software.</p> | <p>WAC 458-20-183 (Amusement, recreation, and physical fitness services)</p> <p>WAC 458-20-211 (Leases or rental of tangible personal property)</p> <p>WAC 458-20-245 (Telephone business, telephone service)</p> <p>WAC 458-20-155 (Information and computer services)</p> | | | |

(7) The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(8) The term shall also not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor shall it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; and (c) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(9) The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

WAC 458-20-171
(Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic)

WAC 458-20-210
(Sales of tangible personal property for farming - Sales of agricultural products by farmers)

WAC 458-20-171
(Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic)

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RCW 82.04.040: Sale, casual or isolated sale, lease or rental

(1) “Sale” means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a “sale at retail” or “retail sale” under RCW 82.04.050. It includes lease or rental, conditional sale contracts, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.

(2) “Casual or isolated sale” means a sale made by a person who is not engaged in the business of selling the type of property involved

(3)(a) “Lease or rental” means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. “Lease or rental” includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. Sec. 7701(h)(1), as amended or renumbered as of January 1, 2003. The definition in this subsection (3) shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the United States internal revenue code, Washington State’s commercial code, or other provisions of federal, state, or local law

(b) “Lease or rental” does not include

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars or one percent of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (3)(b)(iii), an operator must do more than maintain, inspect, or set up the tangible personal property.

WAC 458-20-106
(Casual or isolated sales - Business reorganizations)

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RCW 82.08.020: Tax imposed – Retail sales – Retail car rental

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and there shall be collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection shall be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection shall be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, “motor vehicle” has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(5) The taxes imposed under this chapter shall apply to successive retail sales of the same property.

(6) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

WAC 458-20-145
(Local sales and use tax)

Retail sales tax applies to retail sales unless a specific exemption applies

Depending on the location of sale, sales tax rates range from 7.0 to 8.9%

RCW 82.08.050: Buyer to pay, seller to collect tax – Statement of tax – Exception – Penalties – Contingent expiration of subsection

Effective July 1, 2004.

(1) The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department pursuant to the provisions of RCW 82.08.060.

Unless a specific retail sales tax exemption applies, the buyer is responsible for paying the retail sales tax to the seller and the seller is responsible for collecting and remitting the tax to the Department. If the seller has not collected the sales tax or properly maintained records substantiating exemptions claimed, the Department will hold the seller liable for the tax.

Documentation is necessary to verify sales tax exemptions. Use Buyer’s Retail Sales Tax Exemption Certificate.

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RCW 82.08.050: Buyer to pay, seller to collect tax – Statement of tax – Exception – Penalties – Contingent expiration of subsection *(continued)*

(2) The tax required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department, and any seller who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(3) In case any seller fails to collect the tax herein imposed or, having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of his or her own acts or the result of acts or conditions beyond his or her control, he or she shall, nevertheless, be personally liable to the state for the amount of the tax, unless the seller has taken from the buyer a resale certificate under RCW 82.04.470, a copy of a direct pay permit issued under RCW 82.32.087, information required under the streamlined sales and use tax agreement, or information required under rules adopted by the department. Sellers shall not be relieved from personal liability for the amount of the tax unless they maintain proper records of exempt transactions and provide them to the department when requested.

(4) The amount of tax, until paid by the buyer to the seller or to the department, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter is guilty of a misdemeanor.

(5) The tax required by this chapter to be collected by the seller shall be stated separately from the selling price in any sales invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the selling price or collected separately from the buyer. For purposes of determining the tax due from the buyer to the seller and from the seller to the department it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price.

(6) Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the department; and all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, shall apply in addition; and, for the sole purpose of applying the various provisions of chapter 82.32 RCW, the twenty-fifth day of the month following the tax period in which the purchase was made shall be considered as the due date of the tax.

(7) Notwithstanding subsections (1) through (6) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if:

(a) The person's activities in this state, whether conducted directly or through another person, are limited to:

- (i) The storage, dissemination, or display of advertising;
- (ii) The taking of orders; or
- (iii) The processing of payments; and

(b) The activities are conducted electronically via a web site on a server or other computer equipment located in Washington that is not owned or operated by the person making sales into this state nor owned or operated by an affiliated person. "Affiliated persons" has the same meaning as provided in RCW 82.04.424.

(8) Subsection (7) of this section expires when: (a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or (b) it is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

RCW 82.04.470: Resale certificate – Burden of proof – Tax liability – Rules – Resale certificate defined

(1) Unless a seller has taken from the buyer a resale certificate, the burden of proving that a sale of tangible personal property, or of services, was not a sale at retail shall be upon the person who made it.

(2) If a seller does not receive a resale certificate at the time of the sale, have a resale certificate on file at the time of the sale, or obtain a resale certificate from the buyer within a reasonable time after the sale, the seller shall remain liable for the tax as provided in RCW 82.08.050, unless the seller can demonstrate facts and circumstances according to rules adopted by the department of revenue that show the sale was properly made without payment of sales tax.

(3) Resale certificates shall be valid for a period of four years from the date the certificate is provided to the seller.

WAC 458-20-102
(Resale
Certificates)

| Law | Rules | Other Guidance | Worker Category | Comments |
|-----|-------|----------------|-----------------|----------|
|-----|-------|----------------|-----------------|----------|

RCW 82.04.470: Resale certificate – Burden of proof – Tax liability – Rules – Resale certificate defined *(continued)*

(4) The department may provide by rule for suggested forms for resale certificates or equivalent documents containing the information that will be accepted as resale certificates. The department shall provide by rule the categories of items or services that must be specified on resale certificates and the business classifications that may use a blanket resale certificate.

(5) As used in this section, “resale certificate” means documentation provided by a buyer to a seller stating that the purchase is for resale in the regular course of business, or that the buyer is exempt from retail sales tax, and containing the following information:

- (a) The name and address of the buyer;
- (b) The uniform business identifier or revenue registration number of the buyer, if the buyer is required to be registered;
- (c) The type of business engaged in;
- (d) The categories of items or services to be purchased for resale or that are exempt, unless the buyer is in a business classification that may present a blanket resale certificate as provided by the department by rule;
- (e) The date on which the certificate was provided;
- (f) A statement that the items or services purchased either: (i) Are purchased for resale in the regular course of business; or (ii) are exempt from tax pursuant to statute;
- (g) A statement that the buyer acknowledges that the buyer is solely responsible for purchasing within the categories specified on the certificate and that misuse of the resale or exemption privilege claimed on the certificate subjects the buyer to a penalty of fifty percent of the tax due, in addition to the tax, interest, and any other penalties imposed by law;
- (h) The name of the individual authorized to sign the certificate, printed in a legible fashion;
- (i) The signature of the authorized individual; and
- (j) The name of the seller.

(6) Subsection (5)(h), (i), and (j) of this section does not apply if the certificate is provided in a format other than paper. If the certificate is provided in a format other than paper, the name of the individual providing the certificate must be included in the certificate.

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RCW 82.04.060: Sale at wholesale, wholesale sale

“Sale at wholesale” or “wholesale sale” means:
(1) Any sale of tangible personal property, any sale of services defined as a retail sale in RCW 82.04.050(2)(a), any sale of amusement or recreation services as defined in RCW 82.04.050(3)(a), any sale of canned software, or any sale of telephone service as defined in RCW 82.04.065, which is not a sale at retail; and
(2) any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers: PROVIDED, That the term “real or personal property” as used in this subsection shall not include any natural products named in RCW 82.04.100.

Same rules that apply to retail sales

Workers dispatched to manufacturers at a manufacturing site to alter or improve the manufactured product. Includes: Temporary workers performing retail activities for a person other than the consumer

Wholesaling rate is .00484
These activities are consistent with processing for hire activities. To avoid determining whether a temporary worker is merely altering tangible personal property or creating a new, different, or useful article of tangible personal property, temporary staffing businesses may report income from providing temporary workers to manufacturing clients under the wholesaling classification. A resale certificate is necessary under these circumstances.
Refer to RCW 82.04.050. Requires a resale certificate. Refer to RCW 82.04.270.

RCW 82.04.270: Tax on wholesalers

Upon every person engaging within this state in the business of making sales at wholesale, except persons taxable as wholesalers under other provisions of this chapter; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of 0.484 percent.

Same rules that apply to retail sales

See processing for hire discussion, RCW 82.04
A staffing business that provides a worker to a client who is not a consumer to perform activities that are defined as retail sales is subject to the wholesaling classification. To substantiate the wholesale nature of the transaction, the staffing business is responsible for obtaining a resale certificate from the client.
A staffing business that provides a temporary employee whose labor directly alters property while in the manufacturing process (creating an article of tangible personal property that is new, different, or more useful) may also report under the wholesaling classification. The manufacturer’s resale certificate is necessary for the staffing business to document the nature of the activity.

| Law | Rules | Other Guidance | Worker Category | Comments |
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RCW 82.04.100: Extractor

“Extractor” means every person who from the person’s own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees other than plantation Christmas trees, or other natural products, or takes fish, shellfish, or other sea or inland water foods or products. “Extractor” does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer under RCW 82.04.213.

WAC 458-20-135
(Extracting natural products)

RCW 82.04.110: Manufacturer

“Manufacturer” means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from his or her own materials or ingredients any articles, substances or commodities. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, all or a portion of the materials that become a part or whole of the manufactured article, the department shall prescribe equitable rules for determining tax liability: PROVIDED, That a person who produces aluminum master alloys is a processor for hire rather than a manufacturer, regardless of the portion of the aluminum provided by that person’s customer: PROVIDED FURTHER, That a nonresident of this state who is the owner of materials processed for it in this state by a processor for hire shall not be deemed to be engaged in business in this state as a manufacturer because of the performance of such processing work for it in this state: PROVIDED FURTHER, That the owner of materials from which a nuclear fuel assembly is made for it by a processor for hire shall not be subject to tax under this chapter as a manufacturer of the fuel assembly.

WAC 458-20-136
(Manufacturing, processing for hire, fabricating)

For the purposes of this section, “aluminum master alloy” means an alloy registered with the Aluminum Association as a grain refiner or a hardener alloy using the American National Standards Institute designating system H35.3.

RCW 82.04.120: “To manufacture”

(Effective July 1, 2004.)

“To manufacture” embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include: (1) The production or fabrication of special made or custom made articles; (2) the production or fabrication of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician; (3) cutting, delimiting, and measuring of felled, cut, or taken trees; and (4) crushing and/or blending of rock, sand, stone, gravel, or ore.

“To manufacture” shall not include: Conditioning of seed for use in planting; cubing hay or alfalfa; activities which consist of cutting, grading, or ice glazing seafood which has been cooked, frozen, or canned outside this state; the growing, harvesting, or producing of agricultural products; packing of agricultural products, including sorting, washing, rinsing, grading, waxing, treating with fungicide, packaging, chilling, or placing in controlled atmospheric storage; or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

WAC 458-20-136
(Manufacturing,
processing for hire,
fabricating)

RCW 82.04.240: Tax on manufacturers

(Contingent expiration date.)

Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, manufactured, multiplied by the rate of 0.484 percent.

The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

WAC 458-20-136
(Manufacturing,
processing for hire,
fabricating)

Refer to processing for hire, RCW 82.04.280.
Manufacturing B&O rate .00484.

| Law | Rules | Other Guidance | Worker Category | Comments |
|-----|-------|----------------|-----------------|----------|
|-----|-------|----------------|-----------------|----------|

RCW 82.04.260 Tax on manufacturers and processors of various foods and by-products – Research and development organizations – Nuclear fuel assemblies – Travel agents – Certain international activities – Stevedoring and associated activities – Low-level waste disposers – Insurance agents, brokers, and solicitors–Hospitals – Expiration of subsection.

(Contingent effective date.)

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) Seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of 0.138 percent;

(c) By canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables, or selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen, processed, or dehydrated multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record;

(d) Dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record;

WAC 458-20-136
(Manufacturing, processing for hire, fabricating)

(e) Alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent. This subsection (1)(e) expires July 1, 2009; and

(f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of 0.275 percent.

(6) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(8) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

WAC 458-20-258
(Travel agents and tour operators)

WAC 458-20-193D
(Transportation, communication, public utility activities, or other services in interstate or foreign commerce)

Travel agents who actually book travel for clients

Travel agent B&O rate is .00275.

| Law | Rules | Other Guidance | Worker Category | Comments |
|---|---|----------------|--|---|
| <p>RCW 82.04.260: Tax on manufacturers and processors of various foods and by-products – Research and development organizations – Nuclear fuel assemblies – Travel agents – Certain international activities – Stevedoring and associated activities – Low-level waste disposers – Insurance agents, brokers, and solicitors – Hospitals – Expiration of subsection (<i>continued</i>)</p> <p>(9) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.</p> <p>(10) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.</p> <p>If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.</p> <p>(11) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.484 percent.</p> | <p>WAC 458-20-164 (Insurance agents, brokers and solicitors)</p> | | <ul style="list-style-type: none"> • Port/dock workers • Insurance agents, brokers, solicitors | <p>Stevedoring tax rate is 0.00275.</p> <p>Insurance agents B&O tax rate is .00484.</p> |

(12) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(13)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington State, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington State, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington State, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington State, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (13), “commercial airplane,” “component,” and “final assembly of a superefficient airplane” have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (13) must report as required under RCW 82.32.545.

(e) This subsection (13) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

WAC 458-20-168
(Hospitals, medical care facilities, and adult family homes)

Special notice:
“Aerospace Industry Manufacturer Incentives,” dated January 15, 2004

Aircraft workers directly associated with the assembly of commercial aircraft and component parts

Staffing businesses are not hospitals. Medical specialties directly associated with patient care, treatment, or diagnosis - refer to RCW 82.04.290, Service and other activities.

Phased-in rates contingent upon requirements of 7E7 being met

| Law | Rules | Other Guidance | Worker Category | Comments |
|---|--|----------------|---|---|
| <p>RCW 82.04.280: Tax on printers, publishers, highway contractors, extracting or processing for hire, cold storage warehouse or storage warehouse operation, insurance general agents, radio and television broadcasting, government contractors – Cold storage warehouse defined – Storage warehouse defined – Periodical or magazine defined</p> | | | | |
| <p><i>(Contingent expiration date.)</i></p> <p>Upon every person engaging within this state in the business of:</p> <p>(1) Printing, and of publishing newspapers, periodicals, or magazines;</p> <p>(2) building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved;</p> <p>(3) extracting for hire or processing for hire, except persons taxable as processors for hire under another section of this chapter;</p> | <p>WAC 458-20-143 (Publishers of newspapers, magazines, periodicals)</p> <p>WAC 458-20-171 (Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic)</p> <p>WAC 458-20-136 (Manufacturing, processing for hire, fabricating)</p> | | <p>Workers dispatched to manufacture at a manufacturing site to alter or improve the product to the extent that a new, different, or useful item is produced.</p> | <p>Processing for hire rate .00484. Refer to RCW 82.04.060.</p> <p>Processing for hire activities do not include inspecting, sorting, counting, packing, loading or unloading, or operating machinery and equipment to perform these tasks. Refer to RCW 82.04.290.</p> |

(4) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers;

(5) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of RCW 48.05.310;

(6) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any;

(7) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of 0.484 percent.

As used in this section, "cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

As used in this section, "storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance. "Storage warehouse" does not include a building or structure, or that part of such building or structure, in which an activity taxable under RCW 82.04.272 is conducted.

WAC 458-20-182
(Warehouse businesses)

WAC 458-20-164
(Insurance agents, brokers and solicitors)

WAC 458-20-241
(Radio and television broadcasting)

WAC 458-20-17101
(Government contracting - Construction, installations, or improvements to government real property)

WAC 458-20-182
(Warehouse businesses)

Temporary employees provided to move/retrieve goods with a warehouse or cold storage warehouse are not operators of a warehouse or cold storage warehouse. Consequently, income received from providing warehouse worker is not entitled to the preferential warehouse/cold storage warehouse rate. Refer to RCW 82.04.290 discussion about the services and other business activities classification.

| Law | Rules | Other Guidance | Worker Category | Comments |
|-----|-------|----------------|-----------------|----------|
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RCW 82.04.280: Tax on printers, publishers, highway contractors, extracting or processing for hire, cold storage warehouse or storage warehouse operation, insurance general agents, radio and television broadcasting, government contractors – Cold storage warehouse defined – Storage warehouse defined – Periodical or magazine defined (continued)

As used in this section, “periodical or magazine” means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication

WAC 458-20-143
(Publishers of newspapers, magazines, periodicals)

RCW 82.04.290 Tax on international investment management services or other business or service activities

Change in 2004 (See 1328-S.SL)

(1) Upon every person engaging within this state in the business of providing international investment management services, as to such persons, the amount of tax with respect to such business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, 82.04.298, 82.04.2905, 82.04.280, 82.04.2907, 82.04.272, and 82.04.2906, and subsection (1) of this section; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.5 percent.

This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a “sale at retail” or a “sale at wholesale.” The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent’s remuneration or commission and shall not be subject to taxation under this section.

- Cashiers/sales clerks and representatives
- Adult day care
- Dental care specialties assigned to offices involving care of dental patients
- Medical care specialties directly associated with the actual care, treatment, or diagnosis of patients
- Veterinarian care specialties directly associated with the actual care, treatment, or diagnosis of animals
- Clerical, administrative functions
- Accounting and bookkeeping specialties

Service and other activities tax rate
1.5%

- Financial and banking specialties
- Human resource specialties
- Legal services
- Data processing service
- Computer programming
- Social workers
- Hospital administrators
- Forklift operators
- Warehouse workers
- Material sorting
- Shipping and receiving workers
- Mailroom operators
- Order processing
- Workers provided to a manufacturer at a manufacturing facility to inspect, sort, count, pack, load or unload, or operate machinery and equipment to perform these tasks
- Janitorial workers
- Call center supervisors and agents
- Professional engineering specialties
- Computer programming, development, design, and modification
- Marketing surveyors
- Merchandising

Does not include occupations wherein tangible personal property is altered, repaired, cleaned, imprinted, or improved.

Does not include occupations wherein canned software is installed or computer hardware is installed, repaired, cleaned, serviced, etc.

| Law | Rules | Other Guidance | Worker Category | Comments |
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RCW 82.04.290: Tax on international investment management services or other business or service activities *(continued)*

- Marketing sampling, demonstration, hosting, and booth manning
- Movers
- Ambulance and hearse drivers
- Adult day care workers
- Educational staffing

RCW 82.04.2905 Tax on providing day care

Upon every person engaging within this state in the business of providing child care for periods of less than twenty-four hours; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.484 percent.

Preferential rate limited to those who provide day care to children. Persons who provide adult day care are subject to B&O tax under the service and other activities rate of 1.5%

RCW 82.16.020: Public utility tax imposed – Additional tax imposed – Deposit of moneys

(1) There is levied and there shall be collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax shall be equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(a) Express, sewerage collection, and telegraph businesses: Three and six-tenths percent;

(b) Light and power business: Three and sixty-two one-hundredths percent;

(c) Gas distribution business: Three and six-tenths percent;

WAC 458-20-179
(Public Utility tax)

- Taxi, limousine, and other non-drivers

Urban transportation public utility tax rate .00642
Does not include hearse and ambulance drivers. See RCW 82.04.290.

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| <p>(d) Urban transportation business: Six-tenths of one percent;</p> <p>(e) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;</p> <p>(f) Motor transportation, railroad, railroad car, and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent;</p> <p>(g) Water distribution business: Four and seven-tenths percent.</p> <p>(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.</p> <p>(3) Twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses and sixty percent of the moneys collected under subsection (1) of this section on sewerage collection businesses shall be deposited in the public works assistance account created in RCW 43.155.050.</p> | <p>WAC 458-20-179 (Public Utility tax)</p> | <p>• Taxi, limousine, and other non-drivers</p> | <p>Urban transportation public utility tax rate .00642.</p> <p>Does not include hearse and ambulance drivers. See RCW 82.04.290.</p> <p>(See RCW 82.16.010 for difference between urban and motor transportation activities.)</p> |
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RCW 82.16.010 Definitions

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| <p>For the purposes of this chapter, unless otherwise required by the context:</p> <p>(1) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any business herein defined as an urban transportation business.</p> <p>(2) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business.</p> <p>(3) "Railroad car business" means the business of operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business.</p> <p>(4) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale.</p> | | | |
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| Law | Rules | Other Guidance | Worker Category | Comments |
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| <p>RCW 82.16.010: Definitions <i>(continued)</i></p> <p>(5) “Light and power business” means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.</p> <p>(6) “Telegraph business” means the business of affording telegraphic communication for hire.</p> <p>(7) “Gas distribution business” means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.</p> <p>(8) “Motor transportation business” means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined by RCW 81.68.010 and 81.80.010: PROVIDED, That “motor transportation business” shall not mean or include the transportation of logs or other forest products exclusively upon private roads or private highways.</p> <p>(9) “Urban transportation business” means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (a) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (b) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup, or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property.</p> <p>(10) “Public service business” means any of the businesses defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature, except telephone business as defined in RCW 82.04.065 and low-level radioactive waste site operating companies as redefined in RCW 81.04.010. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry, pipe line, toll bridge, toll logging road, water transportation and wharf businesses.</p> | | | | |

(11) "Tugboat business" means the business of operating tugboats, towboats, wharf boats or similar vessels in the towing or pushing of vessels, barges or rafts for hire.

(12) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(13) The meaning attributed, in chapter 82.04 RCW, to the term "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "in this state," "within this state," "cash discount" and "successor" shall apply equally in the provisions of this chapter.