

# Special Notice

*Intended audience: manufacturers of dairy products*

**Nov. 25, 2019**

## Dairy product manufacturers' B&O tax deductions extended – update on tax reporting requirements

The business and occupation (B&O) tax deductions provided to dairy product manufacturers on certain manufacturing and selling activities has been extended through June 30, 2025 ([RCW 82.04.4268](#)).

To claim the tax preferences, manufacturers must report their gross income from dairy product manufacturing activities and then claim a deduction for the amounts attributable to qualified activities not subject to the B&O tax.

**Dairy products** are defined as:

**A.** Products, not including any marijuana-infused product, that as of Sept. 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.

**B.** Products comprised of not less than seventy percent dairy products that qualify under (A), measured by weight or volume (effective Oct. 1, 2013).

## What the exemptions provide

The following tax classifications and activities are eligible for B&O tax deductions:

- Manufacturing B&O tax - value of products sold by dairy product manufacturers.
- Wholesaling and retailing B&O tax - products manufactured and sold by the manufacturer at wholesale or retail to a customer that transports the product outside this state in the normal course of business.
- Wholesaling B&O tax - products manufactured and sold by the manufacturer at wholesale to a customer who uses such dairy products as an ingredient or component in the manufacturing of another dairy product in Washington.

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These deductions expire July 1, 2025. When they expire, the first two activities listed above will then be subject to a reduced B&O tax rate of 0.138% ([RCW 82.04.260 \(1\)](#)).

Note: Products manufactured and sold by the manufacturer at wholesale to a customer who uses such dairy products as an ingredient or component in the manufacturing of another dairy product in Washington will not receive the preferential rate as of July 1, 2025. This activity will be subject to the standard wholesaling B&O tax rate of .484% ([RCW 82.04.260\(1\)\(c\)\(iii\)](#)).

## How to complete the excise tax return

Dairy product manufacturers must report their income and then take a deduction for the amounts not subject to tax. There is no application required for claiming these deductions. However, manufacturers are required to file all returns, surveys, and reports through the department's E-file or My DOR system.

- Income from manufacturing of dairy product is reported under the Manufacturing of Dairy Products B&O tax classification. A deduction should be claimed for the same amount under Exempt Manufactured Products.
- All wholesale sales should be reported under the Wholesaling B&O tax classification. A deduction may then be taken for the value of products manufactured and sold by the manufacturer at wholesale to a buyer who does one of the following:
  - Transports the product outside the state in the normal course of business. This deduction is claimed under Dairy, Fresh Fruit/Vegetable, and Seafood Mfd Products for Transport Out of State;
  - Uses such dairy products as an ingredient or component in the manufacturing of another dairy product in Washington. This deduction is claimed under Dairy Product used in Manufacturing of Dairy Products.
- All retail sales should be reported under the Retailing B&O tax classification. A deduction may then be taken for the value of products manufactured and sold by the manufacturer at retail to a buyer that transports the product outside the state in the normal course of business. This deduction is claimed under Dairy and Seafood Mfd Products for Transport Out of State.
- A deduction is allowed under the Wholesaling and the Retailing B&O tax classifications for products delivered to customers outside the state. The deduction is claimed under Interstate and Foreign Sales.
- Retail sales must also be reported under the Retail Sales tax section. Generally, sales of dairy products are exempt from sales tax under Exempt Food Sales. For more information, see [WAC 458-20-244](#).

If the business manufactures other products not classified as dairy products, that income should be reported under the Manufacturing B&O tax classification or another manufacturing classification, if appropriate.

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## **How to document the deduction for product transported outside the state by the buyer**

A manufacturer taking a wholesale or retail deduction for product transported outside Washington by the buyer must keep and preserve records for up to five years. Those records must establish that the goods were transported by the purchaser in the ordinary course of business out of this state. A letter from the buyer stating this fact is adequate documentation. For wholesale sales, the buyer must also supply the seller with a copy of the buyer's reseller permit.

## **How to document the deduction for product sold to a buyer to be used as ingredient in another dairy product**

A manufacturer taking a wholesale deduction for product sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product in this state must keep and preserve records for up to five years. A letter from the buyer stating that the product was purchased as an ingredient or component in the manufacturing of a dairy product in this state is adequate documentation. The buyer must also supply the seller with a copy of the buyer's reseller permit.

## **When should I file an Annual Tax Performance Report?**

If you claimed one or more of these exemptions, you must electronically file an Annual Tax Performance Report by May 31 of the year following the year when you claimed the exemption ([RCW 82.32.534](#)).

For example, if you claimed one or more of the B&O tax exemptions in 2017, your annual report would need to be filed by May 31, 2018.

## **What if I don't file an Annual Tax Performance Report?**

If you do not timely file this report, the exemptions claimed will be disallowed and a portion of the balance owed will be billed back to you.

Note: For tax years prior to 2017, the full value of the exemptions claimed under [RCW 82.04.4268](#) will be billed back to you if the incentive survey was not filed timely ([RCW 82.32.585](#)).

## **More information**

[Engrossed Substitute Senate Bill \(ESSB\) 6057](#), Part II, Chapter 6, Laws of 2015

## **Questions?**

For general tax questions or help logging into My DOR, call 360-705-6705.

For questions regarding the Annual Tax Incentive Survey or Reports, call 360-705-6210.

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