



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (August 2017) (Implements RCW 34.05.360)

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WSR 17-22-027

Agency: Department of Revenue

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: WAC 458-20-101 Tax registration and tax reporting, explains the tax registration and tax reporting requirements for the Department of Revenue (Department) as established in RCW 82.32.030 and 82.32.045. The Department amended WAC 458-20-101 to clarify:

The items needed on a business license application when obtaining a tax registration endorsement;
Changes in ownership requiring a new registration; and
Engaging in business after the tax registration endorsement has been revoked.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 458-20-101 Tax registration and tax reporting
- Suspended:

Statutory authority for adoption: RCW 82.32.300 and 82.01.060(2)

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-11-089 on May 19, 2017 (date).

Describe any changes other than editing from proposed to adopted version:

Throughout the rule, the term, "tax reporting account number" was changed to "tax account ID." This change is a result of new terminology that will be used when the Department converts to its new tax and licensing system.

Language previously added in subsection (2)(a)(iv) regarding the registration of a trade name was subsequently removed in the adopted version of the rule to avoid confusion between registering a trade name with the Department and registering an entity name with the Secretary of State's Office.

In subsection (6)(a), language was added to clarify that a business license document will only be issued if at least one registration or license endorsement is issued.

In subsections (11)(a)(iii) and (11)(b)(iv), the term "composition" was removed and examples were included. Clarification in these two subsections was made so taxpayers know when they are required to obtain a new unified business identifier if a change in the ownership of a general partnership occurs.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other: An analysis was not prepared

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date adopted: October 23, 2017

Name: Erin T Lopez

Title: Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 16-10-104, filed 5/4/16, effective 6/6/16)

WAC 458-20-101 Tax registration and tax reporting. (1) **Introduction.** This rule explains tax registration and tax reporting requirements for the Washington state department of revenue (department) as established in RCW 82.32.030 and 82.32.045. This rule discusses who is required to be registered, and who must file excise tax returns. This rule also discusses changes in ownership requiring a new registration, the administrative closure of taxpayer accounts, and the revocation and reinstatement of a tax ((reporting)) account with the department. Persons required to file tax returns should also refer to WAC 458-20-104 (Small business tax relief based on income of business). Persons with certain ownership structures (e.g., corporations, limited liability companies, limited partnerships, limited liability partnerships, and limited liability limited partnerships) must also register with the office of the secretary of state.

Examples. Examples found in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(2) **Persons required to obtain tax registration endorsements.** Except as provided in (a) of this subsection, every person who is engaged in any business activity for which the department is responsible for administering and/or collecting a tax or fee, must apply for and obtain a tax registration endorsement with the department. (See RCW 82.32.030.) This endorsement is printed on the face of the business person's business license document. The tax registration endorsement is nontransferable, and valid for as long as that person continues in business.

(a) **When registration is not required.** Registration under this rule is not required if all of the following conditions are met:

(i) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW (business and occupation (B&O) tax), is less than twelve thousand dollars per year;

(ii) A person's gross income from all business activities taxable under chapter 82.16 RCW (public utility tax), is less than twelve thousand dollars per year;

(iii) The person is not required to collect or pay to the department retail sales tax or any other tax or fee which the department is authorized to administer and/or collect; and

(iv) The person is not otherwise required to obtain a business license subject to the business license application procedure provided in chapter 19.02 RCW. For the purposes of this rule, the term "business license" means any agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity.

(b) **Tax registration endorsement.** The term "tax registration endorsement," as used in this rule, has the same meaning as the term "tax registration" or "certificate of registration" used in Title 82 RCW and other rules in chapter 458-20 WAC.

(c) **Person.** The term "person" has the meaning given in RCW 82.04.030 and WAC 458-20-203.

(d) **Tax ((reporting)) account ((number)) ID.** The term "tax ((reporting)) account ((number)) ID" as used in this rule, is the ID number used to identify persons registered with the department.

(3) **Requirement to file tax returns.** Persons registered with the department must file tax returns and remit the appropriate taxes to the department, unless they are placed on an "active nonreporting" status by the department.

(a) **Active nonreporting status requirements.** The department may relieve any person of the requirement to file returns by placing the person in an active nonreporting status if all of the following conditions are met:

(i) The person's value of products (RCW 82.04.450), gross proceeds of sales (RCW 82.04.070), or gross income of the business (RCW 82.04.080), from all business activities taxable under chapter 82.04 RCW (B&O tax), is less than:

(A) Twenty-eight thousand dollars per year; or

(B) Forty-six thousand six hundred sixty-seven dollars per year for persons generating at least fifty percent of their gross amount from activities taxable under RCW 82.04.255 (real estate brokerage services), RCW 82.04.290 (2)(a) (service and other activities B&O tax classification), and RCW 82.04.285 (operating contests of chance);

(ii) The person's gross income (RCW 82.16.010) from all business activities taxable under chapter 82.16 RCW (public utility tax) is less than twenty-four thousand dollars per year; and

(iii) The person is not required to collect or pay to the department retail sales tax or any other tax or fee the department is authorized to collect.

(b) **Notification of active nonreporting status.** The department will notify those persons it places on an active nonreporting status. A person may request to be placed on an active nonreporting status if the conditions of (a) of this subsection are met.

(c) **Responsibility to notify department about change in status.** Persons placed on an active nonreporting status by the department are required to timely notify the department if their business activities do not meet any of the conditions explained in (a) of this subsection. These persons will be removed from an active nonreporting status, and must file tax returns and remit appropriate taxes to the department, beginning with the first period in which they do not qualify for an active nonreporting status.

(d) **Obligation to file a tax return.** Persons that have not been placed on an active nonreporting status by the department must continue to file tax returns and remit the appropriate taxes.

(4)(a) **Example 1.** Bob Brown is starting a bookkeeping service. Income generated from this activity is taxable under the service and other activities B&O tax classification. The gross income of the business is expected to be less than twelve thousand dollars per year. Bob's only income is earned from his bookkeeping activity. Due to the nature of the business activities, Bob is not required to pay or collect any other tax or fee which the department is authorized to collect. Bob has no other need to file a business license application.

Bob Brown is not required to apply for and obtain a tax registration endorsement with the department. The conditions under which a business person may engage in business activities without obtaining the tax registration endorsement have been met. However, if Bob Brown in some future period has gross income exceeding twelve thousand dollars per year, he will be required to obtain a tax registration endorsement. If Bob's gross income exceeds forty-six thousand six hun-

dred sixty-seven dollars per year (because Bob generates all of his gross income under the service and other activities B&O tax classification), he will be required to file tax returns and remit the appropriate taxes.

(b) **Example 2.** Cindy Smith is opening a business to sell children's books to local customers at retail. The gross proceeds of sales are expected to be less than twelve thousand dollars per year.

Cindy Smith must apply for and obtain a tax registration endorsement with the department. While gross income is expected to be less than twelve thousand dollars per year, Cindy Smith is required to collect and remit retail sales tax.

(c) **Example 3.** Alice Smith operates a taxicab service with an average gross income of eighteen thousand dollars per year. She also owns a management consulting service with an average gross income of fifteen thousand dollars per year. Assume that Alice is not required to collect or pay to the department any other tax or fee the department is authorized to collect. Alice qualifies for an active nonreporting status because her taxicab income is less than the twenty-four thousand dollar threshold for the public utility tax and her consulting income is less than the forty-six thousand six hundred sixty-seven dollar threshold for the B&O tax. If the department does not first place her on an active nonreporting status, she may request the department to do so.

(5) **Out-of-state businesses.** Out-of-state businesses may have to obtain a tax registration endorsement with the department.

(a) **B&O and public utility taxes.** The B&O and public utility taxes are imposed on the act or privilege of engaging in business activity within Washington. RCW 82.04.220 and 82.16.020. Out-of-state persons who have established sufficient nexus in Washington to be subject to Washington's B&O or public utility taxes must obtain a tax registration endorsement with this department if they do not satisfy the conditions expressed in subsection (2)(a) of this rule.

(b) **Retail sales and use taxes.** Out-of-state persons required to collect Washington's retail sales or use tax under RCW 82.04.067 must obtain a tax registration endorsement. Out-of-state persons who are not statutorily required to collect Washington's use tax, may elect to obtain a tax registration endorsement.

(c) **Other relevant rules for out-of-state persons.** Out-of-state persons making sales into or doing business within Washington should also refer to the following rules in chapter 458-20 WAC for a discussion of their tax reporting responsibilities:

(i) WAC 458-20-193 Interstate sales of tangible personal property;

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

(iii) WAC 458-20-194 Doing business inside and outside the state;

(iv) WAC 458-20-19401 Minimum nexus thresholds for apportionable activities; and

(v) WAC 458-20-221 Collection of use tax by retailers and selling agents.

(6) **Registration procedure.** The state of Washington initiated the combined licensing program of the business licensing service, and later the unified business identifier (UBI) program to simplify the registration and licensing requirements imposed on the state's business community. Completion of the business license application and payment of the applicable fee(s) enables a person to register or license with several state agencies and cities, including the department of reve-

nue, using a single form. The person will be assigned one unified business identifier number, which ~~((will be))~~ is used ~~((for))~~ by all state agencies and cities participating in the UBI program. The department may ~~((assign))~~ use the unified business identifier number as the taxpayer's department of revenue tax ~~((reporting))~~ account ~~((number))~~ ID, or it may assign a different or additional ~~((number))~~ ID as the revenue tax ~~((reporting))~~ account ~~((number))~~ ID.

(a) **Business license application.** Persons completing the business license application will be issued a business license document if at least one registration or license endorsement was issued. The face of this document will list the registrations and licenses (endorsements) which have been obtained.

(b) **Fees.** The department does not charge a separate registration fee for issuing a tax registration endorsement. Persons required to complete a business license application ~~((may, however, be))~~ are subject to other fees.

(c) **Forms and submission.** ~~((While the UBI program is administered by the department,))~~ Business license applications are available online from the ~~((state of Washington's))~~ department's business licensing service web site at bls.dor.wa.gov.

(7) **Registration application.** The ~~((state of Washington))~~ department requires the following items to ~~((process))~~ be provided on a business license application ~~((s))~~ in order to obtain a tax registration endorsement:

(a) Purpose or reason for application.

(b) The registration endorsement(s) that are needed, including any information required by the respective regulating agency specific to the endorsement requested.

(c) ~~((Owner))~~ Business information which includes, but is not limited to ~~((, the))~~:

(i) Type of business entity ownership structure;

(ii) Business activities; ~~((the))~~

(iii) Business name and open date; ~~((the))~~

(iv) Business contact information ~~((; and the address, date of birth, Social Security number (if the person is an individual) or))~~, including the physical and mailing address of the business;

(v) Estimated gross annual income of business;

(vi) Business identification number as follows:

(A) Social Security number of the business owner(s) if the business ownership structure is a sole proprietorship or general partnership; or

(B) Federal employer identification number (FEIN) ~~((if the person is an entity) and other contact information for all governing persons which includes the owners, members, officers, and partners. This same information may also be needed for spouses.~~

(d) Location and business information which includes, but is not limited to, location of business, type of business activities, FEIN (except for sole proprietorships that do not have employees), and estimated income and bank account information) for all other business ownership structures other than those listed in (c)(vi)(A) of this subsection including, but not limited to, corporations, limited liability companies, limited liability partnerships, and joint ventures;
or

(C) For those business entities that have not been issued a Social Security number or FEIN, the department may request the business entity provide an alternative federally issued identification number.

(vii) Full legal name(s) and contact information of all governing persons of the business entities identified in (c)(vi)(B) of this subsection.

(d) All license and administrative fees due for the application filing and endorsements requested.

(e) Additional information other than the items identified in this subsection may also be required to satisfy the specific licensing requirements of other agencies.

(8) Temporary revenue registration certificate. A temporary revenue registration certificate may be issued to any person who operates a business of a temporary nature.

(a) Temporary businesses, for the purposes of registration, are those with definite, predetermined dates of operation for no more than two events each year with each event lasting no longer than one month.

(b) Each temporary registration certificate is valid for a single event. Persons that subsequently make sales into Washington may incur additional tax liability. Refer to WAC 458-20-193 (Interstate sales of tangible personal property) for additional information on tax reporting requirements. It may be required that a tax registration endorsement be obtained, in lieu of a temporary registration certificate. See subsection (2) of this rule.

(c) Temporary revenue registration certificates may be obtained by following registration instructions on the department's web site at dor.wa.gov.

(9) Display of business license document. The taxpayer is required to display the business license document in a conspicuous place at the business location for which it is issued.

(10) Multiple locations. A business license document is required for each place of business where a taxpayer engages in business activities for which the department is responsible for administering and/or collecting a tax or fee, and any main office or principal place of business from which excise tax returns are to be filed. This requirement applies to locations both within and without the state of Washington.

(a) **Place of business.** For the purposes of this subsection, the term "place of business" means:

(i) Any separate establishment, office, stand, cigarette vending machine, or other fixed location; or

(ii) Any vessel, train, or the like, where the taxpayer solicits or makes sales of tangible personal property, or contracts for or renders services in this state or otherwise transacts business with customers.

(b) **Multiple locations with a single excise tax return.** A taxpayer ~~((wishing to))~~ may report all tax liability for multiple business locations on a single excise tax return ~~((may request))~~, but must maintain a separate business license document for each location. ~~((The original business license document shall be retained for the main office or principal place of business from which the returns are to be filed, with additional documents obtained for all branch locations.))~~ All business license documents will reflect the same tax ~~((reporting))~~ account ~~((number))~~ ID.

(c) **Multiple locations with separate excise tax returns.** A taxpayer desiring to file a separate excise tax return covering a branch location, or a specific construction contract, may ~~((apply for and receive))~~ request on the business license application a separate department of revenue tax ~~((reporting))~~ account ~~((number. A business license document will be issued for each tax reporting account number and will~~

~~represent a separate account))~~ ID for each location to be reported separately.

(d) **Application required for each ((location's business license document)) location.** A business license application must be completed for each business location to obtain a separate business license document(~~, or revenue tax reporting account number, for a new location~~)).

(11) **Change in ownership.** When a change in ownership of a business occurs, the new owner must ~~((generally apply for and obtain))~~ submit a business license application(s) to receive a new business license document for each business location acquired that is endorsed with the appropriate licenses needed for the business. If the new owner has never been registered for business, it will be issued a new unified business identifier ((by filing a business license application and requesting all applicable license endorsements. A new business license document will be issued reflecting the ownership of the new business. The original)) number. The previous business owner's license document must be destroyed, and any further use of the previous owner's tax ((reporting)) account ((number of the previous owner(s))) ID for tax purposes is prohibited.

(a) **Change in ownership.** A "change in ownership," for purposes of registration, occurs when, but is not limited to:

(i) The sale of a business by one individual, firm or corporation to another individual, firm or corporation;

(ii) The dissolution of a partnership;

(iii) The withdrawal, substitution, or addition of one or more partners where the general partnership continues as a business organization and the change in the ~~((composition of the))~~ partners is equal to or greater than fifty percent. For example, a general partnership currently has two partners and a third partner is added. The addition of one partner is considered a "change in ownership" for purposes of registration because it is equal to or greater than a fifty percent change in the original number of partners;

(iv) Incorporation of a business previously operated as a partnership or sole proprietorship;

(v) Changing from a corporation to a partnership or sole proprietorship; or

(vi) Changing from a corporation, partnership or sole proprietorship to a limited liability company or a limited liability partnership.

(b) **Situations that are not a change in ownership.** For the purposes of registration, a "change in ownership" does not occur upon:

(i) The sale of all or part of the common stock of a corporation;

(ii) The transfer of assets to an assignee for the benefit of creditors or upon the appointment of a receiver or trustee in bankruptcy;

(iii) The death of a sole proprietor where there will be a continuous operation of the business by the executor, administrator, or trustee of the estate or, where the business was owned by a marital community or registered domestic partnership, by the surviving spouse or surviving domestic partner of the deceased owner;

(iv) The withdrawal, substitution, or addition of one or more partners where the general partnership continues as a business organization and the change in the ~~((composition of the))~~ partners is less than fifty percent. For example, a general partnership currently has three partners. One partner is removed and immediately replaced by another partner. The removal and replacement of one partner is not considered a "change in ownership" for purposes of registration because

it results in less than a fifty percent change in the original number of partners; or

(v) A change in the trade name under which the business is conducted.

(c) **Situations where a new business license application may still be required.** While changes in a business entity may not result in a "change in ownership," the completion of a new business license application may be required to reflect the changes in the registered account.

(12) **Change in location.** Whenever the place of business is moved to a new location, the taxpayer must notify the department of the change. Although a new business license application may not be required to notify the department of a location change, some endorsements and licenses will require a new business license and reapproval of the license endorsements at the new location. A new business license document will be issued to reflect the change in location.

(13) **Lost business license documents.** If any business license document is lost, destroyed or defaced as a result of accident or of natural wear and tear, a new document will be issued upon request.

(14) **Administrative closure of taxpayer accounts.** The department may, upon written notification to the taxpayer, close the taxpayer's tax ((reporting)) account and rescind its tax registration endorsement whenever the taxpayer has reported no gross income and there is no indication of taxable activity for two consecutive years.

The taxpayer may request, within thirty days of notification of closure, that the account remain open. A taxpayer may also request that the account remain open on an "active nonreporting" status if the requirements of subsection (3)(a) of this rule are met. The request ((shall)) will be reviewed by the department and if found to be warranted, the department will immediately reopen the account. The following are acceptable reasons for continuing as an active account:

(a) The taxpayer is engaging in business activities in Washington which may result in tax liability.

(b) The taxpayer is required to collect or pay to the department a tax or fee which the department is authorized to administer and/or collect.

(c) The taxpayer has in fact been liable for excise taxes during the previous two years.

(15) **Reopening of taxpayer accounts.** A business person choosing to resume business activities where the department is responsible for administering and/or collecting a tax or fee, may request a previously closed account be reopened. The business person must complete a new business license application. When an account is reopened a new business license document, reflecting a current tax registration endorsement, will be issued. Persons requesting the reopening of an account that had previously been closed due to a revocation action should refer to subsection (16) of this rule.

(16) **Revocation and reinstatement of tax registration endorsements.** Actions to revoke tax registration endorsements must be conducted by the department pursuant to the provisions of chapter 34.05 RCW, the Administrative Procedure Act, and the taxpayers bill of rights of chapter 82.32A RCW. Persons should refer to WAC 458-20-10001((7)) Adjudicative proceedings—Brief adjudicative proceedings—Wholesale and retail cigarette license revocation/suspension—Certificate of registration (tax registration endorsement) revocation, for an explanation

of the procedures and processes pertaining to the revocation of tax registration endorsements.

(a) The department may, by order, revoke a tax registration endorsement if:

(i) Any tax warrant issued under the provisions of RCW 82.32.210 is not paid within thirty days after it has been filed with the clerk of the superior court; or

(ii) The taxpayer is delinquent, for three consecutive reporting periods, in the transmission to the department of retail sales tax collected by the taxpayer; or

(iii) Either:

(A) The taxpayer was convicted of violating RCW 82.32.290(4) and continues to engage in business without fully complying with RCW 82.32.290 (4)(b)(i) through (iii); or

(B) A person convicted of violating RCW 82.32.290(4) is an owner, officer, director, partner, trustee, member, or manager of the taxpayer, and the person and taxpayer have not fully complied with RCW 82.32.290 (4)(b)(i) through (iii).

For purposes of (a)(iii) of this subsection, the terms "manager," "member," and "officer" mean the same as defined in RCW 82.32.145.

(b) The revocation order will be, if practicable, posted in a conspicuous place at the main entrance to the taxpayer's place of business. The department may also post a copy of the revocation order in any public facility, as may be allowed by the public entity that owns or occupies the facility. The revocation order posted at the taxpayer's place of business must remain posted until the tax registration endorsement has been reinstated or the taxpayer has abandoned the premises. A revoked endorsement will not be reinstated until:

(i) The amount due on the warrant has been paid, or satisfactory arrangements for payment have been approved by the department, and the taxpayer has posted with the department a bond or other security in an amount not exceeding one-half the estimated average annual liability of the taxpayer; or

(ii) The taxpayer and, if applicable, the owner, officer, director, partner, trustee, member, or manager of the taxpayer who was convicted of violating RCW 82.32.290(4) are in full compliance with RCW 82.32.290 (4)(b)(i) through (iii), if the tax registration endorsement was revoked as described in (a)(iii) of this subsection.

(c) It is unlawful for any taxpayer to engage in business after its tax registration endorsement has been revoked, regardless of whether other licensing endorsements may exist on the business license document.

(17) **Penalties for noncompliance.** The law provides that any person engaging in any business activity, for which registration with the department is required, must obtain a tax registration endorsement.

(a) The failure to obtain a tax registration endorsement prior to engaging in any taxable business activity constitutes a gross misdemeanor.

(b) Engaging in business after a tax registration endorsement has been revoked by the department constitutes a Class C felony.

(c) Any tax found to have been due, but delinquent, and any tax unreported as a result of fraud or misrepresentation, may be subject to penalty as provided in chapter 82.32 RCW, WAC 458-20-228 and 458-20-230.