



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: February 14, 2020

TIME: 2:52 PM

WSR 20-05-063

Agency: Department of Revenue

Subject of possible rule making: Proposed revision of WAC 458-20-103 Time and place of sale. A copy of the proposed draft rule will be provided at the public meeting.

Statutes authorizing the agency to adopt rules on this subject: RCW 82.32.300, RCW 82.01.060(2)

Reasons why rules on this subject may be needed and what they might accomplish: The Department of Revenue would like to revise WAC 458-20-103 because it is no longer consistent with statutory authority and has been made redundant or replaced by other rules. See RCW 82.32.730; RCW 82.04.040; RCW 82.04.067; RCW 82.08.0531; WAC 458-20-108; WAC 458-20-145; WAC 458-20-211; WAC 458-20-193; WAC 458-20-221; WAC 458-20-19401.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: N/A

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

Name: Tim Danforth
 Address: P.O. Box 47453, Olympia, WA 98504-7453
 Phone: 360-534-1538
 Fax: 360-534-1606
 TTY: 800-833-6384
 Email: TimD@dor.wa.gov
 Web site:
 Other:


(If necessary)
 Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Web site:
 Other:

Additional comments: Written comments may be submitted by mail or email and should be directed to Tim Danforth using one of the contact methods above. Written and oral comments will be accepted at the Public Meeting.

Date: March 25, 2020 **Time:** 10:00 am

Public Meeting Location:

Conference Room
6400 Linderson Way SW
Tumwater, Washington 98501

Date: February 14, 2020	Signature: 
Name: Atif Aziz	
Title: Rules Coordinator	

AMENDATORY SECTION (Amending WSR 82-12-021, filed 5/25/82)

~~WAC 458-20-103 ((Time and place of sale.)) Gift certificates—Sale deemed to occur and retail sales tax collected at time of redemption. ((Under the Revenue Act of 1935, as amended, the word "sale" means any transfer of the ownership of, title to, or possession of, property for a valuable consideration, and includes the sale or charge made for performing certain services.~~

~~For the purpose of determining tax liability of persons selling tangible personal property, a sale takes place in this state when the goods sold are delivered to the buyer in this state, irrespective of whether title to the goods passes to the buyer at a point within or without this state.~~

~~With respect to the charge made for performing services which constitute sales as defined in RCW 82.04.040 and 82.04.050, a sale takes place in this state when the services are performed herein. With respect to the charge made for renting or leasing tangible personal property, a sale takes place in this state when the property is used in this state by the lessee.~~

~~Where gift certificates are sold which will be redeemed in merchandise, or in services which are defined by the Revenue Act as retail sales, the sale is deemed to occur and the retail sales tax shall be collected at the time the certificate is actually redeemed for the merchandise or services. The measure of the tax is the total selling price of the merchandise or services at the time of the redemption, including the redemption value of the certificate, or any part thereof, which is applied toward the selling price. (See WAC 458-20-235 for effect of rate changes on prior contracts and sales agreements. See also WAC 458-20-131 which deals with merchandising games, and which covers the situation where certificates or trade checks are issued which may be redeemed for services which are not retail sales, such as barber services, admissions, etc.)~~

~~Revised March 2, 1982.) (1) Tax timing. A purchase of a product, as defined in RCW 82.32.023, or services made through the redemption of a gift certificate or gift card is deemed to occur for retail sales tax purposes at the time the certificate or card is actually redeemed for the product or services. Retail sales tax must be collected at the time of redemption.~~

~~(2) Tax measure. The measure of the tax is the total selling price of the product or services at the time of the redemption, including the redemption value of the certificate, or any part thereof, which is applied toward the selling price. See RCW 82.08.010 for the definition of selling price.~~