

**RCW 82.12.040 Retailers to collect tax—Penalty.** (1) Every person who is subject to a collection obligation under chapter 82.08 RCW must obtain from the department a certificate of registration. Such persons must, at the time of making sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6) (c), or making transfers of either possession or title, or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. The tax to be collected under this section must be in an amount equal to the purchase price multiplied by the rate in effect for the retail sales tax under RCW 82.08.020. This section does not apply to any retail sale if, in respect to such sale, the seller is subject to a tax collection obligation under chapter 82.08 RCW.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6) (c), of his or her principals for use in this state, must, at the time such sales are made, collect from the purchasers the tax imposed on the purchase price under this chapter, and for that purpose is deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter is deemed to be held in trust by the retailer until paid to the department, and any retailer who appropriates or converts the tax collected to the retailer's own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed is guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the department in the manner prescribed, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is nevertheless personally liable to the state for the amount of such tax, unless the seller has taken from the buyer a copy of a direct pay permit issued under RCW 82.32.087.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter is guilty of a misdemeanor.

(5) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the person would have been obligated to collect retail sales tax on the sale absent a specific exemption provided in chapter 82.08 RCW, and there is no corresponding use tax exemption in this chapter. Nothing in this subsection (5) may be construed as relieving purchasers from liability for reporting and remitting the tax due under this chapter directly to the department.

(6) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the state is prohibited under the Constitution or laws of the United States from requiring the person to collect the tax imposed by this chapter.

(7) Notwithstanding subsections (1) through (4) of this section, any licensed dealer facilitating a firearm sale or transfer between two unlicensed persons by conducting background checks under chapter 9.41 RCW is not obligated to collect the tax imposed by this chapter. [2019 c 8 s 704; 2017 3rd sp.s. c 28 s 213; (2017 3rd sp.s. c 28 s 212 expired July 23, 2017); 2017 c 323 s 525; 2015 c 169 s 9; 2015 c 1 s 11 (Initiative Measure No. 594, approved November 4, 2014); 2011 1st sp.s. c 20 s 103; 2010 c 106 s 221; 2009 c 535 s 1108; 2005 c 514 s 109. Prior: 2003 c 168 s 215; 2003 c 76 s 4; 2001 c 188 s 5; 1986 c 48 s 1; 1971 ex.s. c 299 s 11; 1961 c 293 s 11; 1961 c 15 s 82.12.040; prior: 1955 c 389 s 27; 1945 c 249 s 7; 1941 c 178 s 10; 1939 c 225 s 16; Rem. Supp. 1945 s 8370-33; prior: 1935 c 180 s 33.]

**Effective date—2019 c 8 ss 105, 301, 302, 401, and 704:** See note following RCW 82.08.010.

**Existing rights and liability—Retroactive application—2019 c 8:** See notes following RCW 82.02.250.

**Expiration date—2017 3rd sp.s. c 28 s 212:** "Section 212 of this act expires July 23, 2017." [2017 3rd sp.s. c 28 s 606.]

**Findings—Intent—2017 3rd sp.s. c 28 ss 201-214:** See note following RCW 82.08.0531.

**Existing rights and liability—Severability—Application—Effective dates—2017 3rd sp.s. c 28:** See notes following RCW 82.08.0531.

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Effective date—2015 c 169:** See note following RCW 82.04.050.

**Finding—2015 c 1 (Initiative Measure No. 594):** See note following RCW 9.41.010.

**Effective date—2010 c 106:** See note following RCW 35.102.145.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Effective date—2005 c 514:** See note following RCW 83.100.230.

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Intent—2003 c 76:** See note following RCW 82.08.050.

**Finding—Intent—Effective date—2001 c 188:** See notes following RCW 82.32.087.

**Effective date—1986 c 48:** "This act shall take effect July 1, 1986." [1986 c 48 s 2.]

**Effective dates—Severability—1971 ex.s. c 299:** See notes following RCW 82.04.050.

*Project on exemption reporting requirements: RCW 82.32.440.*