

RCW 82.08.0208 Exemptions—Digital codes. (1) The tax imposed by RCW 82.08.020 does not apply to the sale of a digital code for one or more digital products if the sale of the digital products to which the digital code relates is exempt from the tax levied by RCW 82.08.020.

(2) (a) The tax imposed by RCW 82.08.020 does not apply to a business or other organization for the purpose of making the digital good or digital automated service, including a digital good or digital automated service acquired through the use of a digital code, or service defined as a retail sale in RCW 82.04.050(6)(c), available free of charge for the use or enjoyment of the general public. The exemption provided in this subsection (2) does not apply unless the purchaser has the legal right to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute, or exhibit the product, in whole or in part, to the general public.

(b) For purposes of this subsection (2), "general public" means all persons and not limited or restricted to a particular class of persons, except that the general public includes:

(i) A class of persons that is defined as all persons residing or owning property within the boundaries of a state, political subdivision of a state, or a municipal corporation; and

(ii) With respect to libraries, authorized library patrons.

(3) (a) The tax imposed by RCW 82.08.020 does not apply to the sale to a business of digital goods, and services rendered in respect to digital goods, if the digital goods and services rendered in respect to digital goods are purchased solely for business purposes. The exemption provided by this subsection (3) also applies to the sale to a business of a digital code if all of the digital goods to be obtained through the use of the code will be used solely for business purposes.

(b) For purposes of this subsection (3), the following definitions apply:

(i) "Business purposes" means any purpose relevant to the business needs of the taxpayer claiming an exemption under this subsection (3). Business purposes do not include any personal, family, or household purpose. The term also does not include any activity conducted by a government entity as that term is defined in RCW 7.25.005; and

(ii) "Services rendered in respect to digital goods" means those services defined as a retail sale in RCW 82.04.050(2)(g).

(4) (a) The tax imposed by RCW 82.08.020 does not apply to the sale of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) to a buyer that provides the seller with an exemption certificate claiming multiple points of use. An exemption certificate claiming multiple points of use must be in a form and contain such information as required by the department.

(b) A buyer is entitled to use an exemption certificate claiming multiple points of use only if the buyer is a business or other organization and the digital goods or digital automated services purchased, or the digital goods or digital automated services to be obtained by the digital code purchased, or the prewritten computer software or services defined as a retail sale in RCW 82.04.050(6)(c) purchased will be concurrently available for use within and outside this state. A buyer is not entitled to use an exemption certificate claiming multiple points of use for digital goods, digital codes,

digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) purchased for personal use.

(c) A buyer claiming an exemption under this subsection (4) must report and pay the tax imposed in RCW 82.12.020 and any local use taxes imposed under the authority of chapter 82.14 RCW and RCW 81.104.170 directly to the department in accordance with RCW 82.12.0208 and 82.14.457.

(d) For purposes of this subsection (4), "concurrently available for use within and outside this state" means that employees or other agents of the buyer may use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) simultaneously from one or more locations within this state and one or more locations outside this state. A digital code is concurrently available for use within and outside this state if employees or other agents of the buyer may use the digital goods or digital automated services to be obtained by the code simultaneously at one or more locations within this state and one or more locations outside this state.

(5)(a) Except as provided in (b) of this subsection (5), the tax imposed by RCW 82.08.020 does not apply to sales of audio or video programming by a radio or television broadcaster.

(b)(i) Except as provided in (b)(ii) of this subsection (5), the exemption provided in this subsection (5) does not apply in respect to programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service.

(ii) The exemption provided in this subsection (5) applies to the sale of programming described in (b)(i) of this subsection (5) if the seller is subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived from the sale.

(c) For purposes of this subsection (5), "radio or television broadcaster" includes satellite radio providers, satellite television providers, cable television providers, and providers of subscription internet television.

(6) Sellers making tax-exempt sales under subsection (2) or (3) of this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. [2020 c 139 § 11; 2009 c 535 § 501.]

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