WAC 458-20-167 Educational institutions, school districts, student organizations, and private schools. (1) **Introduction.** This rule explains the application of Washington's business and occupation (B&O), retail sales, and use taxes to educational institutions, school districts, student organizations, and private schools. It also gives tax reporting information to persons operating nursery schools, preschools, or providing child care.

(a) **Other rules that may apply.** Readers may also want to refer to other rules for additional information, including those in the following list:

(i) WAC 458-20-169 Nonprofit organizations.

(ii) WAC 458-20-189 Sales to and by the state of Washington, counties, cities, towns, school districts, and fire districts.

(iii) WAC 458-20-244 Food and food ingredients.

(b) **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 facts and circumstances.

(2) **Definitions.** For the purposes of this rule, the following definitions apply:

(a) **Tuition fees.** The term "tuition fees" includes fees for instruction, library, laboratory, and health services. The term also includes special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students, teachers, or other staff of the institution. RCW 82.04.170.

(b) **Educational institutions.** "Educational institutions" means the following:

(i) Institutions which are established, operated, and governed by this state or its political subdivisions under Title 28A (Common school provisions), 28B (Higher education), or 28C (Vocational education) RCW.

(ii) Nonpublic schools, including parochial or independent schools or school districts, carrying out a program for any or all of grades one through 12, which have been approved by the Washington state board of education. (See also chapter 180-90 WAC, Private schools.)

(iii) Degree-granting institutions offering educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level, provided the institution is accredited by an accrediting association recognized by the United States Secretary of Education and offers to students an educational program of a general academic nature. Degree-granting institutions should refer to chapter 28B.85 RCW for information about the requirement for authorization by the Washington higher education coordinating board.

(iv) Institutions which are not operated for profit, and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture.

(v) Programs that an educational institution cosponsors with a nonprofit organization, as defined by the Internal Revenue Code Sec. 501 (c)(3), provided that educational institution grants college credit for course work successfully completed through the educational program.

(vi) Certain branch campuses of foreign degree-granting institutions, provided the following requirements, among others, are satisfied:

(A) The branch campus must be owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member;

(B) Courses must be provided solely and exclusively to students enrolled in a degree-granting program offered by the institution;

(C) The branch campus must be approved by the Washington higher education coordinating board to operate in this state; and

(D) The branch campus must be recognized to be exempt from income taxes pursuant to 26 U.S.C. Sec. 501(c).

(vii) "Educational institutions" does not include any entity defined as a "private vocational school" under RCW 28C.10.020 and/or any entity defined as a "degree-granting private vocational school" under chapters 28C.10 and 28B.85 RCW (other than those described in (b)(iv) of this subsection).

(c) **Private schools.** "Private schools" means all schools and institutions which are excluded from the above definition of "educational institutions." For example, an elementary school operated by a church organization is a "private school" if the school is not approved. It will be given the tax treatment of an "educational institution" for purposes of this rule only if it has obtained approval from the Washington state board of education.

(3) **Business and occupation tax.** Departments and institutions of the state of Washington are not subject to the B&O tax. School districts are also not subject to the B&O tax, except as to income derived from a public utility or enterprise activity. RCW 82.04.419. Private schools, student organizations, and school districts engaging in utility or enterprise activities, and educational institutions which are not departments or institutions of the state of Washington are subject to the B&O tax as follows:

(a) **Service and other business activities.** The service and other business activities B&O tax applies to the following nonexclusive list of activities or sources of income:

(i) Tuition fees received by private schools. However, educational institutions, as defined above, may deduct amounts derived from tuition fees. RCW 82.04.4282.

(ii) Rental of conference facilities to various organizations or groups.

(iii) Rental by private schools of dormitories or other student lodging facilities which are not generally available to the public and where the student does not have an absolute right of control and occupancy. However, educational institutions may deduct the income from charges for lodging made to students. These amounts are defined by law as being tuition. For additional information on the rental of real estate and the license to use real estate, see WAC 458-20-118.

(iv) Amounts received by private schools for providing meals to students where the meals are provided exclusively for students, teachers, staff, and their guests. However, refer to the comments under retailing for the taxability of meals sold to guests of students. Income from providing meals to students by educational institutions is deductible.

(v) Amounts received from owners of vending machines that operate after accepting payment, for allowing the placement of those machines on the premises of the school. For additional information on sales through vending machines, see WAC 458-20-187.

(b) **Retailing.** Activities and sources of income subject to the retailing B&O tax include, but are not limited to, the following:

(i) Sales of tangible personal property or services classified as retail sales. This includes sales of books and supplies to students where these materials are not supplied as part of the tuition charge. Sales of academic transcripts are exempt from B&O tax. RCW 82.04.399.

(ii) Sales of meals to guests of students.

(iii) Sales of meals or prepared foods in facilities which are generally open to the public, including those sold to students. For additional information on sales by caterers and food service contractors, see WAC 458-20-119.

(iv) Amounts derived from charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities, or charges for the recreational activities defined as retail sales under RCW 82.04.050.

(4) **Retail sales tax.** The retail sales tax applies to all retail sales including, but not limited to, those identified in subsection (3)(b) of this rule, unless a specific statutory exemption applies.

(a) **Tangible personal property and retail services.** Educational institutions, school districts, student organizations, and private schools, including departments or institutions of the state of Washington, are required to collect the retail sales tax on sales of tangible personal property and retail services to consumers, even though such sales may be exempt from the retailing B&O tax. Retail sales tax exemptions are provided for sales of academic transcripts (RCW 82.08.02537) and certain food products (RCW 82.08.0293 and 82.08.0297).

(b) **Interdepartmental charges.** Amounts derived from charges between departments or institutions of the state of Washington, or between departments of the same entity, constitute interdepartmental charges and are not subject to the retailing B&O tax or retail sales tax. For additional information on interdepartmental charges, see WAC 458-20-201.

(c) **Sales through vending machines.** Persons selling through vending machines should refer to WAC 458-20-187.

(d) **Charges to alumni and members of the public.** Amounts derived from charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities, or charges for the recreational activities defined as retail sales under RCW 82.04.050.

(5) **Deferred sales or use tax.** Educational institutions, school districts, student organizations, and private schools are required to report the deferred sales or use tax upon the use of all tangible personal property purchased or acquired under conditions whereby the Washington retail sales tax has not been paid, unless a specific statutory exemption applies. If items are purchased for dual purposes (i.e., for both consumption and resale), a tax paid at source deduction may be claimed for the cost of the articles resold upon which retail sales tax was previously paid. For additional information on reseller permits, see WAC 458-20-102. For additional information on use tax and the use of tangible personal property, see WAC 458-20-178.

(a) **Meals for students and faculty.** These organizations are the consumers of food or beverage products which are ingredients of meals that are furnished to students and faculty. However, certain food products are exempt from the retail sales and/or use tax. RCW 82.12.0293 and 82.12.0297.

(b) **Exemptions.** Use tax exemptions are also provided for the following:

(i) Academic transcripts. RCW 82.12.0347.

(ii) Computers, computer components, computer accessories, computer software, digital goods, or digital codes, irrevocably donated to any public or private nonprofit school or college in this state, as defined by chapter 84.36 RCW. For the purposes of this exemption, RCW 82.04.215 defines "computer" as an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. RCW 82.12.0284. This exemption is available to both the donor and the public or private nonprofit school or college receiving the donation.

(iii) Tangible personal property donated to a nonprofit charitable organization or state or local governmental entity including the subsequent use of the property by a person to whom the property is donated or bailed by the nonprofit charitable organization, or state or local governmental entity, if used to further the purpose of that organization. RCW 82.12.02595.

(iv) The donation of tangible personal property without intervening use to a nonprofit charitable organization, or the incorporation of tangible personal property without intervening use into real or personal property of or for a nonprofit charitable organization in the course of installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating the real or personal property for no charge. RCW 82.12.02595.

(v) Motor vehicles equipped with dual controls loaned to and exclusively used by a school in connection with the school's driver training program. This exemption is available to both the donor and the school receiving the donation. For the purposes of this exemption, RCW 82.12.0264 limits the term "school" to:

(A) The University of Washington, Washington State University, the regional universities, The Evergreen State College, and the state community colleges;

(B) Any public, private, or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station); or

(C) Any public vocational school meeting the standards, courses, and requirements established and prescribed or approved in accordance with the Community College Act of 1967.

(6) **Nursery schools, preschools, child care providers, privately operated kindergartens, and persons monitoring home child care facilities.** Income received by nursery schools, preschools, child care providers, and privately operated kindergartens for the care or education of children who are under eight years of age and not enrolled in or above the first grade is exempt from the B&O tax. RCW 82.04.4282. Such persons are, however, subject to B&O tax upon the gross proceeds derived from providing child care to children who are eight years of age or older or enrolled in or above the first grade.

Persons providing child care for periods of less than 24 hours are subject to tax under the child care B&O tax classification. RCW 82.04.2905. The service and other business activities B&O tax classification applies to child care services provided for periods in excess of 24 hours. Nursery schools, preschools, and child care providers receiving both taxable and exempt income must properly segregate such income in their books of account.

(a) Until January 1, 2035, persons primarily engaged in the business of providing child care may exclude from gross income amounts derived from the care and supervision, for periods of less than 24 hours, of children:

(i) Under 13 years of age; and

(ii) Under 19 years of age who have a verified special need or are under court supervision as determined by the department of children, youth, and families under chapter 43.216 RCW. Also see chapter 110-15 WAC.

(b) "Primarily engaged in the business of providing child care" means that more than 50 percent of the person's gross income of the business, as defined in RCW 82.04.080, is derived from such sales.

(c) The B&O tax does not apply to income derived by a church for the care of children of any age for periods of less than 24 hours, provided the church is exempt from property tax under RCW 84.36.020. RCW 82.04.339.

(d) Persons who monitor home child care facilities under one or more federal nutrition programs are required to register with the department and are taxable on their gross income under the service and other business activities classification of the B&O tax. These monitors contract with, and are accountable to the office of superintendent of public instruction which receives funds from the United States Department of Agriculture and disburses funds to each monitor. Commonly, a portion of the funds received by the monitor is required by law to be passed directly to the home child care facilities for the provision of qualifying meals. That portion of the funds received by the monitor may be taken as a "reimbursement" deduction on the monitor's excise tax return, so that the monitor is subject to B&O tax only on the portion of funds retained for the rendering of services.

(7) **Examples.**

(a) **Example 1.** MN University is an educational institution created by the state of Washington. MN University operates a book store at which it sells text books, school supplies, and apparel to students and nonstudents. As an institution of the state of Washington, MN University is exempt from the B&O tax with respect to all sales, irrespective that sales are made to nonstudents. However, MN is required to collect and remit retail sales tax on its gross proceeds of sales made through its book store.

(b) **Example 2.** DMG College is a degree-granting institution accredited by an accrediting association recognized by the United States Secretary of Education. DMG College is an educational institution operated by a church. DMG makes charges to its students for tuition, meals, and lodging. It also receives income for occasionally providing lodging and meals to guests of its students during the year. DMG also rents its conference and dormitory facilities to various groups during the summer, providing cafeteria services when needed. The income from tuition, meals, and lodging received from the students is exempt from B&O tax and retail sales tax because this entity meets the definition of an educational institution. However, DMG must report the retailing B&O tax and collect and remit retail sales tax upon the gross proceeds derived from the sales of meals and prepared foods to the conference attendees and guests. The income derived from the rental of the conference and dormitory facilities to various groups and student guests is subject to the service and other business activities B&O tax. The college is not considered as holding itself out for the sale of lodging to the general public.

(c) **Example 3.** JB College is an educational institution which is not a department or institution of the state of Washington. JB College has converted five housing units from student use to use by nonstudents. Guests of the administration use these units for stays of two or three days, and are charged a specific amount per night. The col-

lege provides linen, towels, etc., to the users. These units are always rented for periods under 30 days. JB College must report this rental income under the retailing B&O tax and collect and remit retail sales tax. This income is not derived from the occasional rental of student lodging facilities, but is derived from the rental of accommodations specifically maintained for public use.

(d) **Example 4.** Jane Doe operates a private preschool and kindergarten, providing care and elementary education for children. She also provides after hours child care. Jane Doe may claim a deduction for the income received for the care and education of children under eight years old and not enrolled in or above the first grade, provided this income is properly segregated in her books of account. The income attributable to the care of children at or above the first grade level (i.e., eight years old or enrolled in or above the first grade), is subject to the child care B&O tax classification. Until January 1, 2035, if Jane Doe is primarily engaged in the business of providing child care, then the B&O tax will not apply to amounts derived by providing care for children under 13 years of age or under 19 years of age who have a verified special need or are under court supervision as determined by the department of children, youth, and families under chapter 43.216 RCW. Jane Doe may also be able to reduce or eliminate any child care B&O tax liability if she qualifies for the small business B&O tax credit. RCW 82.04.4451 and WAC 458-20-104.

[Statutory Authority: RCW 82.01.060 and 82.32.300. WSR 25-06-069, s 458-20-167, filed 3/4/25, effective 4/4/25. Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 16-06-049, § 458-20-167, filed 2/24/16, effective 3/26/16; WSR 07-10-056, § 458-20-167, filed 4/27/07, effective 5/28/07. Statutory Authority: RCW 82.32.300. WSR 99-03-005, § 458-20-167, filed 1/7/99, effective 2/7/99; WSR 94-07-047, § 458-20-167, filed 3/10/94, effective 4/10/94; WSR 83-07-032 (Order ET 83-15), § 458-20-167, filed 3/15/83; Statutory Authority: RCW 82.01.060(2) and 82.32.300. WSR 78-07-045 (Order ET 78-4), § 458-20-167, filed 6/27/78; Order ET 70-3, § 458-20-167 (Rule 167), filed 5/29/70, effective 7/1/70.]