WAC 458-20-258 Travel agents and tour operators. (1) **Introduction.** This rule describes the business and occupation (B&O) tax, and retail sales and use tax reporting responsibilities of persons providing travel agent or tour operator services. A travel business may include both travel agent and tour operator activities.

(a) **References to related rules.** The department of revenue (department) has adopted other rules that readers may want to refer to:

(i) WAC 458-20-111 (Advances and reimbursements);

(ii) WAC 458-20-183 (Amusement, recreation, and physical fitness services);

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

(iv) WAC 458-20-19402 (Single factor receipts apportionment—Generally).

(b) **Rule examples.** This rule includes a number of examples that identify a set of facts and then state a conclusion. These examples are only a general guide. The department will evaluate each case on its particular facts and circumstances and apply both this rule and other statutory and common law authority.

(2) **Travel agents.**

(a) **Definitions. For purposes of this rule:**

(i) A "travel agent" is a person engaging in the business activity of arranging travel including, but not limited to, transportation, lodging, meals, or other similar service that is purchased by the customer from the service provider and where the travel agent merely receives a commission for arranging the customer's service.

(ii) A "commission" is the fee or percentage of the price charged by a service provider to a customer that the travel agent receives from the service provider as compensation for arranging the purchase of the service by the customer. A commission also includes any additional fee charged by the travel agent to the customer that the travel agent receives as compensation for arranging the purchase of the service by the customer.

(b) **Taxability of income from travel agent services.**

The gross income for engaging in business as a travel agent is the commissions received, which is subject to the travel agent/tour operator B&O tax classification. The gross amount of the commissions is taxable, without any deduction for the cost of materials used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense.

Example 1: Travel Agent books an airplane ticket for Jane in Jane's name. The cost of the ticket is $250, which is paid by Jane. Travel Agent receives $25 from the airline for providing the service. Travel Agent is at no time personally liable for the ticket price. The $25 commission received by Travel Agent is subject to the travel agent/tour operator B&O tax classification.

(i) **Tax rate for tax periods prior to July 1, 2019.** The B&O tax rate on income derived from travel agent and/or tour operator services was 0.275%.

(ii) **Tax rates for tax periods after June 30, 2019.**

(A) **Tax rate for annual taxable amounts of $250,000 or less.** The B&O tax rate on income derived from travel agent and/or tour operator services is 0.275% if the travel agent's annual taxable amount from providing travel agent or tour operator services, or both, was $250,000 or less in the prior calendar year.

(B) **Tax rate for annual taxable amounts of more than $250,000.** The B&O tax rate on income derived from travel agent and/or tour operator services is 0.9% if the travel agent/tour operator's annual taxable amount from providing travel agent or tour operator services, or both, was more than $250,000 in the prior calendar year.

Example 2: In 2019, ABC Travel Agency's annual gross income from providing travel agent and tour operator services was $260,000. Therefore, in 2020, ABC Travel Agency will be subject to B&O tax at a rate of 0.9% on its income from providing travel agent and tour operator services.

Example 3: Evergreen Travel (Evergreen) provides travel agent services and sells coffee at its SeaTac location. In 2020, Evergreen's gross income for all business activities was $300,000. Of that amount, $250,000 was for providing travel agent services. Evergreen did not exceed $250,000 in travel agent service income in 2020. Therefore, in 2021, Evergreen's travel agent service income will be subject to B&O tax at a rate of 0.275%.

(c) **Other income.** Income from other business activities is subject to tax under the appropriate B&O tax classification, such as service and other business activities B&O tax classification or retailing B&O tax classification, as the case may be. If the sale is a retail sale, retail sales tax must be collected unless the sale is specifically exempt by law. See subsection (3) of this rule for an explanation of the taxability of tour operator activities and subsection (4) of this rule for an explanation of the taxability of other potential income generating activities.

(d) **Taxability of purchases.** A travel agent is the consumer of tangible personal property or retail services the travel agent purchases or uses in providing travel agent services. If the travel agent does not pay retail sales tax to the seller of the property or services, the travel agent must remit retail sales (commonly referred to as "deferred sales tax") or use tax directly to the department.

Example 4: TTT Travel Services (TTT) has a booking arrangement with its charter air and bus transportation service providers, under which TTT receives from the providers 10% of the selling price of each ticket sold. TTT charges its customers the face value of each ticket sold.

(i) If TTT, in its capacity as agent for Susan Smith, arranges the purchase of Susan's air transportation from XY Airlines for $500, the $50 TTT receives from XY Airlines is considered commission income subject to the travel agent/tour operator B&O tax classification.

(ii) TTT has a policy requiring customers to pay a 10% nonrefundable down payment for a tour, with the remaining balance due 15 days before departure. If a customer fails to pay the remaining balance or cancels the tour, TTT retains the 10% down payment. Any down payment retained by TTT is included in the gross income of the business and subject to the travel agent/tour operator B&O tax classification.

Example 5: SSS Travel Services (SSS) offers a Washington state tour. The tour package consists of lodging and bus transportation services, which are reserved by SSS, but SSS has no liability for any lodging or bus tickets not sold by SSS to customers.

SSS sells a tour package to Jane and also arranges air transportation to the site where the tour begins. Jane pays $300 for the airline ticket and SSS receives a $30 fee (10% of the airfare) from the airline for booking the flight. Further, SSS collects $600 from Jane for the lodging, only paying $500 over to the lodging providers and

collects $400 for the bus transportation but only pays over to the transportation providers $360.

SSS's gross income from travel agent/tour operator activities is $170, which is subject to the travel agent/tour operator B&O tax classification. This total of $170 income consists of the $30 commission from the airline, $100 retained from the sale of the lodging, and $40 retained from the sale of the bus transportation.

(3) **Tour operators.**

(a) **Definitions.**

(i) A "tour operator" is a person engaging in the business activity of providing tours directly or through third-party providers including, but not limited to, transportation, lodging, meals and other associated services that are purchased by the customer. The tour operator generally either purchases or provides some or all of the services offered, and is itself liable for paying for any services it purchases.

(ii) "Day trips for sightseeing purposes" is a business activity of providing directly or through third-party providers, sight-seeing tours lasting less than twenty-four hours to consumers. Day trips for sightseeing purposes are taxable as "amusement and recreation services" subject to the retailing B&O tax classification and retail sales tax as provided in RCW 82.04.050 (15)(a) and 82.08.020, respectively. Information regarding amusement and recreation services is provided in WAC 458-20-183.

(iii) A "pass-through expense" is an amount received by a tour operator from a customer where the tour operator is acting solely as agent of the customer in purchasing services from a service provider. The customer, not the tour operator is liable for payment of the service provider's charge. The tour operator cannot be primarily or secondarily liable for the charge, other than as agent for the customer. Information regarding advances and reimbursements is provided in WAC 458-20-111.

(b) **Taxability of income from tour operator services.**

The gross income received for engaging in business as a tour operator is subject to the travel agent/tour operator B&O tax classification. There is no deduction allowed for the cost of materials used, labor costs, discounts, taxes, losses, or any other expense to the tour operator. Amounts received from the customer for pass-through expenses are not included as a part of gross income.

Example 6: TTT Travel Services (TTT) offers a Washington state tour priced at $1,500. The tour package consists of air transportation, lodging, and bus transportation. TTT is liable for paying the service providers, even if a customer fails to pay TTT for a reserved tour. The gross income of the business is the total tour sales price received, $1,500, and is subject to the travel agent/tour operator B&O tax classification.

(i) **Tax rate for periods prior to July 1, 2019.** The B&O tax rate on income derived from tour operator activities was 0.275%.

(ii) **Tax rates for periods after June 30, 2019.**

(A) **Tax rate for annual taxable amounts of $250,000 or less.** The B&O tax rate on income derived from travel agent and/or tour operator services is 0.275% if the travel agent/tour operator's annual taxable amount from providing travel agent or tour operator services, or both, was $250,000 or less in the prior calendar year.

(B) **Tax rate for annual taxable amounts of more than $250,000.** The B&O tax rate on income derived from travel agent and/or tour operator activities is 0.9% if the travel agent/tour operator's annual

taxable amount from providing travel agent or tour operator services, or both, was more than $250,000 in the prior calendar year.

Example 7: Chinook Travel (Chinook) provides tours of Washington state and travel agent services. In 2019, Chinook's gross income from providing tours and travel agent services was $260,000. In 2020, Chinook's gross income from providing tours and travel agent services was $200,000. Therefore, in 2020, Chinook will be subject to B&O tax at a rate of 0.9% on its income from providing tours and travel agent services in 2020. In 2021, Chinook will be subject to B&O tax at a rate of 0.275% because its prior year income from providing tours and travel agent services did not exceed $250,000.

(c) **Other income.** Income from other business activities is subject to tax under the appropriate B&O classification, such as the service and other business activities classification or retailing classification, as the case may be. If the sale is a retail sale, retail sales tax must be collected unless specifically exempt by law. See subsection (2) of this rule for an explanation of the taxability of travel agent activities and subsection (4) of this rule for an explanation of the taxability of other potential income-generating activities.

(d) **Taxability of purchases.** A tour operator is the consumer of tangible personal property or retail services the tour operator purchases or uses in a tour operator's business. If the tour operator does not pay retail sales tax to the seller of the property or services, the tour operator must remit retail sales (commonly referred to as "deferred sales tax") or use tax directly to the department.

(4) **Taxability of other income.** A travel agent or tour operator may derive income from business activities other than as a travel agent or tour operator. The gross income from these other business activities is subject to other B&O tax classifications and retail sales tax, as provided by law.

Examples of other income that a travel agent or tour operator may receive include:

(a) **Sales of tangible personal property, such as a gift or merchandise to customers.** Gross proceeds from these sales are subject to retailing B&O tax classification and the travel agent/tour operator must collect and remit retail sales tax, unless specifically exempt by law.

(b) **Management, financial, and administrative services provided to an affiliated company.** Gross income from these activities is subject to the service and other business activities B&O tax classification, even if the affiliated company is engaged in business as a travel agent or tour operator.

(c) **Incentive payments or other referral fees.** Gross income from the activities of making referrals for other providers or of using products or services of other providers is subject to the service and other business activities B&O tax classification. This includes payments to travel agents from businesses providing global distribution systems used to store and retrieve information and conduct transactions related to travel services provided by hotels, airlines, rental car companies, and other travel-service providers.

Example 8: TTT Travel Services (TTT) is hired to purchase an airline ticket for a customer. TTT uses Global Distribution Systems Company (GDS) to purchase the airline ticket from Airways Company. Airways Company pays GDS a commission for booking the airline ticket. GDS then pays TTT a fee for TTT using its global distribution systems. The fee to TTT is based on a percentage of the commission GDS received

from Airways Company. The fee received by TTT from GDS is subject to the service and other business activities B&O tax classification.

Example 9: TTT Travel Services (TTT) is hired to book an airline ticket for a customer. After locating an XY Airlines flight the customer wants, TTT purchases the ticket in the name of the customer. XY Airlines agrees that TTT has no liability to pay for the flight and that the customer alone is liable to pay for the flight. The customer agrees that TTT has no liability for providing the purchased service and the customer will not be entitled to a refund from TTT if the flight is canceled. In these circumstances, TTT may exclude the amount of the ticket for its customer from its taxable gross income. However, if TTT Travel provided XY Airlines with a guarantee of payment, then TTT would have a secondary liability to pay for the ticket and would not be entitled to exclude the amount from gross income.

TTT must include as gross income all commission income received from XY Airlines, the service provider, for booking the air transportation, whether paid by the customer or the service provider. Any additional fees for other activities are subject to the service and other business activities B&O tax classification.

Example 10: TTT Travel Services (TTT) offers a Washington state tour priced at $1,500. The tour package consists of air transportation, lodging, and bus transportation. TTT is liable for paying the service providers, even if a customer fails to pay TTT for a reserved tour. The gross income of the business is the total tour sales price received, $1,500, and is subject to the travel agent/tour operator B&O tax classification.

Example 11: TTT has a policy requiring customers to pay a 10% nonrefundable down payment for a tour, with the remaining balance due 15 days before the departure. If a customer fails to pay the remaining balance or cancels the tour, TTT retains the 10% down payment. Any down payment retained by TTT is included in the gross income of the business and subject to the travel agent/tour operator B&O tax classification.

Example 12: SSS Travel Services (SSS) offers a tour package and also arranges transportation to the site where the tour begins. The tour package includes a $300 airline ticket, $600 in lodging and $400 for bus transportation. SSS secondarily guarantees only the lodging payment. SSS's gross income is $600 (from the lodging).

(5) **Apportionment.** Persons engaged in business as a travel agent or tour operator both inside and outside the state may be eligible to apportion gross income reportable under the travel agent/tour operator B&O tax classification. WAC 458-20-19401 and 458-20-19402 provide guidance on apportionment methods that may be appropriate for a travel agent or tour operator that has substantial nexus with other states.

[Statutory Authority: RCW 82.01.060, 82.32.300, and 82.04.260. WSR 25-12-040, s 458-20-258, filed 5/28/25, effective 6/28/25. Statutory Authority: RCW 82.01.060(2) and 82.32.300. WSR 15-22-065, § 458-20-258, filed 11/2/15, effective 12/3/15. Statutory Authority: RCW 82.32.300. WSR 90-17-003, § 458-20-258, filed 8/2/90, effective 9/2/90.]