

WAC 458-20-250 Solid waste collection tax. (1) Introduction.

This section explains how the solid waste collection tax imposed under chapter 82.18 RCW applies; who is required to collect the tax; and the B&O, sales, and use tax obligations of persons providing solid waste collection services. The tax imposed under chapter 82.18 RCW was previously known as the "refuse collection tax." For the purposes of this section, the tax is referred to by its statutory name, the "solid waste collection tax."

(2) (a) **What is "solid waste"?** "Solid waste" or "waste" means garbage, trash, rubbish, or other material discarded as worthless or not economically viable for further use. The term does not include hazardous or toxic waste nor does it include material collected primarily for recycling or salvage.

(b) **Who is the taxpayer for purposes of the solid waste collection tax?** "Taxpayer" means that person upon whom the solid waste collection tax is imposed, that is, the private or commercial consumer.

(c) **Who is required to collect the solid waste collection tax?** Every person who receives waste for transfer, storage, or disposal including, but not limited to, all collection services, public or private dumps, transfer stations, and similar operations, must collect the solid waste collection tax from the private or commercial consumer.

(d) **What is the measure of the tax?** The solid waste collection tax applies to the consideration charged for solid waste collection services.

"Consideration charged for the services" is the total amount billed as compensation for solid waste collection services, without any deduction for any costs of doing business or any other expense whatsoever, paid or accrued. The term does not include:

(i) Any amount included in the charges for materials collected primarily for recycling;

(ii) The solid waste collection tax itself, whether separately itemized or not;

(iii) Any utility taxes or consumer taxes, imposed by the state or any political subdivision thereof or any municipal corporation, directly upon the consumer and separately itemized on the taxpayer's billing; or

(iv) Late charges or penalties which may be imposed for nontimely payment.

(3) **Reporting and collection obligations.** The person who collects the charges for solid waste collection services from the taxpayer is responsible for collecting the solid waste collection tax and remitting it to the state.

(a) **Failure to collect tax.** If any person charged with collecting the tax fails to bill the taxpayer for it, or to notify the taxpayer in writing that the tax is due, then that person shall be personally liable for the tax. Thus, unlike the retail sales tax, the solid waste collection tax may be included within the gross fee or charge billed to taxpayers and need not be separately itemized on such billings, but only if such taxpayers are notified in writing that the tax has been imposed and is being collected. Nothing prevents any solid waste collection business from separately itemizing the tax on customer billings, at its option.

(b) **Failure to remit collected tax.** If any person collects the tax and fails to pay it to the department in the manner provided in this section, for any reason whatsoever, the person shall be personally liable for the tax.

(4) **Due date.** The solid waste collection tax is due from the taxpayer within twenty-five days from the date the taxpayer is billed for the solid waste collection services. The solid waste collection tax must be separately reported upon lines provided on the excise tax return.

The tax is due to be remitted to the department by the person collecting it at the end of the tax reporting period in which the tax is received by that person.

(5) **Partial payments.** If a taxpayer makes only a partial payment of the amount billed for the services and tax, the amount paid must first be used to remit the solid waste collection tax to the department. The tax has first priority over all other claims against the amount paid by the taxpayer.

(6) **Sales to the federal government, Indians and Indian tribes.** The federal government, its agencies and instrumentalities, and all solid waste collection service contracts with such federal entities are not subject to the solid waste collection tax. Similarly, Indians and Indian tribes may be exempt from the tax. Refer to WAC 458-20-190 and 458-20-192 for more information about tax reporting and record-keeping obligations relating to sales to the federal government and Indians or Indian tribes.

(7) **Transactions with multiple collection businesses.** To prevent pyramiding or multiple taxation of single transactions, the solid waste collection tax does not apply to any person other than the ultimate consumer of the solid waste service.

(a) **Exemption certificate.** Persons engaged in the solid waste collection business by operating facilities for the transfer, storage, or disposal of waste, including public and private dumps, and who provide such services directly to taxpayers for a charge, are liable for the collection of the solid waste collection tax on such charges. However, persons who collect the solid waste collection tax and who, themselves, utilize the further services of others for the transfer, storage, or disposal of the waste collected are not required to again pay the tax to such other service providers. In order to be exempt from such tax payment a solid waste collection business must provide other solid waste service providers with a solid waste collector's exemption certificate in the following form:

We hereby certify that we are engaged in the solid waste collection business and are registered with the state department of revenue to collect and report the solid waste collection tax imposed under chapter 82.18 RCW. We certify further that the solid waste collection tax due with respect to the solid waste collection business being performed under this certificate has been or will be collected and paid and that we are exempt from further payment of such tax on charges for any solid waste collection services being procured by us.

Business Name Authorized Signature
Business Address Date
Revenue Registration No.
U.T.C. Certificate of Public Necessity No.
If not regulated by U.T.C., please check here

(b) **Blanket exemption certificates.** Blanket certificates may be provided in advance by solid waste collectors or other persons who collect the customer charges for solid waste collection and who are liable for collecting and remitting the solid waste collection tax. Blanket certificates are valid for as long as the buyer and seller

have a recurring business relationship. A "recurring business relationship" means at least one sale transaction within a period of twelve consecutive months. RCW 82.08.050 (7)(c).

(c) **Examples.** Examples of taxable and tax exempt transactions are:

(i) A private person or commercial customer hauls its own waste to a dump site for disposal and pays a fee - the fee is subject to the solid waste collection tax.

(ii) A solid waste collection company picks up and hauls residential or commercial waste to a dump for disposal - this company bills the customer for the tax and need not pay the tax upon any further charge made by the dump site operator, by providing an exemption certificate.

(iii) A city provides solid waste collection services to its residents through an independent hauler under a negotiated contract, and uses a county operated land fill. The city bills the residents on their utility bills. The tax applies to the solid waste portion of the utility bill adjusted as provided in this section. These taxes do not apply to any charge paid by the city to the hauling company, nor to any charge made by the county to the city for dumping services. The city must provide the hauler and the county with an exemption certificate.

(8) **Business and occupation tax.** A solid waste collection business is subject to service and other activities B&O tax on the gross income from solid waste collection activities. There is no deduction for any cost of doing business or any amounts paid over to other solid waste collection businesses. Late charges or penalties are subject to the service and other activities B&O tax.

Solid waste collection is an "enterprise activity," when funded over fifty percent by user fees. Amounts derived from this activity by a local governmental entity are subject to service and other activities B&O tax. See RCW 82.04.419, 82.04.4291, and WAC 458-20-189.

(9) **Sales of containers.** Solid waste collection businesses which provide waste receptacles, containers, dumpsters, and the like to their customers for a charge, separate from any charge for collection of the waste, are engaged in the business of renting tangible personal property taxable separate and apart from the solid waste collection business. Charges for such rentals, however designated, are subject to retailing B&O and retail sales taxes when they are billed separately or are line itemized on customer billings.

(10) **Sales and use tax obligations for the use of property.** Solid waste collection businesses are themselves the consumers of all tangible personal property purchased for their own use in conducting such business, other than items for resale or renting to customers, e.g., rented receptacles. Retail sales tax must be paid to materials suppliers and providers of such tangible consumables. (See RCW 82.04.050.) If the seller does not collect retail sales tax, the solid waste collection business must remit the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department unless specifically exempt by law. Deferred sales or use tax should be reported on the buyer's excise tax return. However, the excise tax return does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax liability should be reported on the use tax line of the buyer's excise tax return. For detailed information regarding the use tax, refer to WAC 458-20-178 (Use tax).

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and chapter 82.18 RCW. WSR 08-14-025, § 458-20-250, filed 6/20/08, effective 7/21/08. Statutory Authority: RCW 82.32.330, 82.01.060(2), and 34.05.230. WSR 06-12-017, § 458-20-250, filed 5/26/06, effective 6/26/06. Statutory Authority: RCW 82.32.300. WSR 89-16-090 (Order 89-11), § 458-20-250, filed 8/2/89, effective 9/2/89; WSR 86-15-064 (Order ET 86-14), § 458-20-250, filed 7/22/86.]