

**WAC 458-20-153 Funeral establishments.** (1) **Introduction.** This rule explains:

(a) The application of business and occupation (B&O), retail sales, and use taxes to the business activities of funeral establishments; and

(b) The application of tax to income derived from prearrangement funeral service contracts.

For the purposes of this rule, the term "funeral establishment" means a person licensed under RCW 18.39.145. Persons operating cemeteries should refer to WAC 458-20-154 (Cemeteries, crematories, columbaria) for tax-reporting information.

The funeral and cemetery board (board) regulates funeral establishments. For funeral establishments, refer to chapter 18.39 RCW and chapters 308-47, 308-48, and 308-49 WAC for information on the laws and administrative rules governing their business activities.

(2) **General tax reporting responsibilities.** The gross proceeds attributable to funeral activities are taxable when income is accrued in the books and records or when services are performed or merchandise is delivered, whichever is earlier.

The gross proceeds for funeral services are subject to tax under the service and other activities classification of the B&O tax. The gross proceeds from the retail sales of tangible personal property such as urns, caskets, clothing, outside casket cases, floral arrangements, plants, and acknowledgment cards are subject to tax under the retailing classification of the B&O tax. Funeral establishments are also responsible for collecting and remitting to the department of revenue (department) retail sales tax on retail sales of tangible personal property unless specifically exempt by law.

Funeral establishments commonly quote a lump sum price for a standard funeral service, which includes the furnishing of funeral services and tangible personal property. Where the funeral establishment quotes a lump sum price for a standard funeral service, which includes both the sale of a casket and a charge for the rendering of service, the retail sales tax is collected upon one-half of such lump sum price. Clothing, outside case (a concrete or metal box into which the casket is placed) and other tangible personal property furnished in addition to the casket must be billed separately and the retail sales tax collected thereon.

(a) **Reimbursement for accommodation expenditures.** Amounts received by a funeral establishment as reimbursement for goods or services provided by persons not employed by, affiliated, or associated with the funeral establishment may be deducted from the measure of the B&O tax if these amounts have been reported as gross income on the funeral establishment's excise tax return. These amounts are deductible if advanced to accommodate the customer and separately itemized on the billing statement or invoice in the exact amount of the expenditure. See RCW 82.04.4296.

(b) **In-state services with out-of-state interment.** A funeral establishment may perform funeral services or other services such as preparing the remains of a deceased person and placing the remains in a casket within Washington, with the remains subsequently removed to another state for interment. In these cases, the B&O and retail sales taxes generally apply to the income received from the sale of funeral merchandise and services as explained in this subsection. The merchandise (e.g., casket or urn) is delivered to the buyer within Washington when the merchandise is used in performing these services, even if interment subsequently occurs outside the state.

Neither B&O nor retail sales taxes apply to the sale of tangible personal property, without intervening use, delivered by the seller to the buyer at an out-of-state location. Refer to WAC 458-20-193 (In-bound and outbound interstate sales of tangible personal property) for more information regarding the delivery requirements for out-of-state sales of tangible personal property.

(c) **Sales to the federal government.** Sales of tangible personal property directly to the federal government are exempt from the retail sales tax, though the seller remains subject to B&O tax unless a specific exemption applies. Sales of tangible personal property to other persons, whether paid with federal funds or through a reimbursement arrangement, are fully subject to the retail sales tax. For additional information about the taxability of sales to the federal government, refer to WAC 458-20-190 (Sales to and by the United States—Doing business on federal reservations—Sales to foreign governments).

(3) **Funeral establishments purchasing tangible personal property.** Generally, retail sales tax is due when purchasing items used or consumed by funeral establishments when providing professional services. These items generally include, but are not limited to, equipment, tools, furniture, and all preparation room supplies such as embalming fluid and other chemicals, solvents, waxes, cosmetics, eye caps, gauze, and cotton.

(a) **Items purchased for resale.** Tangible personal property purchased for resale without intervening use is not subject to retail sales tax. Property commonly purchased for resale by funeral establishments includes, but is not limited to, urns, caskets, clothing, outside casket cases, flowers, plants, and acknowledgment cards. A funeral establishment purchasing tangible personal property for resale must provide to the seller, a reseller permit to document the wholesale nature of the sale as provided in WAC 458-20-102 (Reseller permits).

(b) **Deferred sales and use tax.** If the seller does not collect retail sales tax on a retail sale, the buyer 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. For detailed information regarding use tax, refer to WAC 458-20-178 (Use tax).

(4) **Prearrangement contracts and trusts.** Funeral establishments often enter into prearrangement contracts requiring them to provide funeral services and merchandise at some future date. Unless otherwise exempt, the law requires funeral establishments to place a portion of the cash purchase price of the contract (at least ninety percent as of the effective date of this section), excluding retail sales tax, into one or more prearrangement funeral service trusts. Withdrawal of trust funds may only occur upon fulfillment or cancellation of the contract. See chapter 18.39 RCW.

(a) **When does tax liability arise?** Amounts placed in prearrangement funeral service trusts are subject to excise tax upon withdrawal from the trust accounts. In other words, the amounts are taxable upon fulfillment or cancellation of the contract. Refer to subsection (2) of this section (General tax reporting responsibilities) for the tax treatment of amounts related to the fulfillment of the contract.

(b) **Retail sales tax - Prearrangement funeral service trust accounts.** If retail sales tax paid by the buyer is placed into a prearrangement funeral service trust account, the tax is reported upon fulfillment of the contract and remitted to the department at that time.

If retail sales tax paid by the buyer is not placed into a prearrangement funeral service trust account, the tax must be reported on the excise tax return for the current reporting period and remitted to the department.

Upon cancellation of a prearrangement contract, a refund of retail sales tax remitted by a funeral establishment to the department is subject to the time limitations on refunds in RCW 82.32.060. For example, the law prohibits the department from refunding retail sales tax to a funeral establishment for a prearrangement contract that is canceled five years after the retail sales tax associated with the contract is remitted to the department. See WAC 458-20-229 (Refunds).

(c) **Contract cancellation and trust administration fees.** Amounts retained by the funeral establishment when a prearrangement funeral service contract is canceled are subject to the service and other activities B&O tax, except that any amounts allocable to a retail sale of merchandise are subject to retailing B&O and retail sales taxes. Administration fees deducted from a prearrangement funeral service trust by the administrator are also subject to the service and other activities B&O tax.

(5) **Sourcing.** In general, the place of sale occurs where the body is placed in the casket. For other sourcing information, refer to WAC 458-20-145.

(6) **Examples.** The following examples identify a number of facts and state a conclusion regarding the taxability of funeral establishments. The tax results of other situations must be determined after a review of all of the facts and circumstances. Use these examples only as a general guide.

(a) John and Jane Doe contracted with ABC Funeral Home (ABC) for the funeral of a deceased relative. John and Jane also purchased a casket from ABC. Funeral services purchased from ABC included preparing the body of the deceased for viewing, arranging for the final disposition, providing facilities for the visitation and funeral service, and transporting the deceased and the mourners to the place of final disposition.

(i) ABC owes service and other activities B&O tax for the funeral services charge.

(ii) The charge for the casket is subject to retailing B&O and retail sales taxes.

(b) John and Jane Doe entered into a prearrangement funeral service contract with ABC for the purchase of funeral merchandise and services to be provided upon their deaths. John and Jane made a down payment when signing the contract and agreed to pay the balance in sixty monthly installments. The merchandise and services John and Jane purchased include a casket, preparing the body of the deceased for viewing, arranging for the final disposition, providing facilities for the visitation and funeral service, and transporting the deceased and the mourners to the place of final disposition. The contract itemizes retail sales tax and provides for a finance charge on the unpaid balance of the contract. ABC places all receipts under the contract, including finance charges, into a prearrangement funeral service trust account.

ABC must report:

(i) The charges for funeral services and the finance charges under the service and other activities B&O tax classification at the time they perform the services; and

(ii) The charge for the casket is subject to retailing B&O and retail sales tax at the time it is used.

[Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 15-21-089, § 458-20-153, filed 10/21/15, effective 11/21/15. Statutory Authority: RCW 82.32.300. WSR 83-07-033 (Order ET 83-16), § 458-20-153, filed 3/15/83; Order ET 70-3, § 458-20-153 (Rule 153), filed 5/29/70, effective 7/1/70.]