

WAC 458-20-174 Sales of motor vehicles, trailers, and parts to motor carriers operating in interstate or foreign commerce. (1) **Introduction.** This rule explains the application of the business and occupation tax on sales to for hire motor carriers operating in interstate or foreign commerce.

This rule also explains the retail sales tax exemptions provided by RCW 82.08.0262 and 82.08.0263 for sales to for hire motor carriers operating in interstate or foreign commerce, and addresses the requirements that must be met and the documents that must be preserved to substantiate a claim of retail sales tax exemption. Motor carriers should refer to WAC 458-20-17401 for a discussion of the use tax and use tax exemptions available to motor carriers for the purchase or use of vehicles and parts under RCW 82.12.0254. Use tax complements the retail sales tax, and in most but not all cases mirrors the retail sales tax. Purchases of tangible personal property used or certain services purchased in Washington are subject to use tax if the retail sales tax has not been paid, or where an exemption for sales and use taxes are not available.

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

(a) **Component parts** mean any tangible personal property that is attached to and becomes an integral part of the motor vehicle or trailer. It includes such items as motors, motor and body parts, batteries, paint, permanently affixed decals, and tires.

(i) Component parts include the axle and wheels, referred to as a "converter gear" or "dolly," that is used to connect a trailer behind a tractor and trailer. Component parts also include tangible personal property that is attached to the vehicle and used as an integral part of the motor carrier's operation of the vehicle, even if the item is not required mechanically for the operation of the vehicle. It includes cellular telephones, communication equipment, fire extinguishers, and other such items, whether they are permanently attached to the vehicle or held by brackets that are permanently attached. If held by brackets, the brackets must be permanently attached to the vehicle in a definite and secure manner with these items attached to the bracket when not in use and intended to remain with that vehicle.

(ii) Component parts do not include antifreeze, oil, grease, and other lubricants that are considered consumed at the time they are placed into the vehicle, even though they are required for operation of the vehicle. It does include items such as spark plugs, oil filters, air filters, hoses, and belts.

(b) **Primary property location** is the address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The primary property location is not altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(3) **Business and occupation tax.** Business and occupation (B&O) tax is due on all sales to motor carriers that are sourced to Washington, notwithstanding that the retail sales tax may not apply because of the specific statutory exemptions provided by RCW 82.08.0262 and 82.08.0263.

(a) **Retailing of interstate transportation equipment B&O tax classification.** The retailing of interstate transportation equipment B&O tax classification (see RCW 82.04.250) applies to the following if

the retail sales tax exemption requirements for RCW 82.08.0262 or 82.08.0263 are met:

(i) Sales of motor vehicles, trailers, and component parts thereof;

(ii) Leases of motor vehicles and trailers without operator; and

(iii) Charges for labor and services rendered in respect to constructing, cleaning, repairing, altering or improving vehicles and trailers or component parts thereof.

(b) **Retailing B&O tax classification.** The retailing B&O tax classification applies to the following:

(i) Sales and services as described in (a)(i) through (iii) of this subsection, that do not meet the exemption requirements provided in RCW 82.08.0262 or 82.08.0263;

(ii) Sales of equipment, tools, parts and accessories which do not become a component part of a motor vehicle or trailer used in transporting persons or property therein;

(iii) Sales of consumable supplies, such as oil, antifreeze, grease, other lubricants, cleaning solvents and ice; and

(iv) Towing charges.

(c) **Allocation of income.** Except as provided in (d) of this subsection, all income from sales to motor carriers is allocated to where the sales are sourced under the general sourcing provisions of RCW 82.32.730. This includes leases to motor carriers that do not require recurring periodic payments.

(d) **Periodic lease payments.**

(i) Recurring periodic lease payments of leasing transactions described in (a) of this subsection are sourced as follows:

(A) The first payment is sourced to the location where the lessee takes possession of the transportation equipment. This is often the lessor's store location or a delivery location.

(B) Periodic payments made after the first payment are sourced for each period covered by the payment to the primary property location.

(ii) All recurring periodic lease payments of leasing transactions described in (b) of this subsection are sourced to the primary property location provided by the lessee to the lessor. The location where the lessee takes delivery of this type of equipment is immaterial.

(4) **Retail sales tax.** RCW 82.08.0262 and 82.08.0263 provide retail sales tax exemptions for certain sales to motor carriers when the sale is sourced to Washington.

(a) **Sales or leases of motor vehicles and trailers.** RCW 82.08.0263 provides an exemption from the retail sales tax for sales and leases of motor vehicles and trailers to be used for transporting persons or property for hire in interstate or foreign commerce. This exemption is available whether such use is by a for hire motor carrier, or by persons operating the vehicles and trailers under contract with a for hire motor carrier. The for hire carrier must hold a carrier permit issued by the Interstate Commerce Commission (ICC) or its successor agency to qualify for this exemption. The seller, at the time of the sale, must retain as a part of its records an exemption certificate that must be completed in its entirety. The buyers' retail sales tax exemption certificate is available on the department's website at dor.wa.gov, or can be obtained by contacting the department at:

Taxpayer Services

Department of Revenue
P.O. Box 47478
Olympia, WA 98504-7478
1-800-647-7706

If the department's buyers' retail sales tax exemption certificate is not used, the form used must be in substantially the following form:

Exemption Certificate

The undersigned hereby certifies that it is, or has contracted to operate for, the holder of carrier permit No., issued by the Interstate Commerce Commission or its successor agency, and that the vehicle this date purchased from you being a (specify truck or trailer and make) , Motor No., Serial No. is entitled to exemption from the Retail Sales Tax under RCW 82.08.0263. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

Dated.....

.....
(name of carrier-purchaser)

By.....
(title)

.....
(address)

The lease of motor vehicles and trailers to motor carriers, with or without operator, must satisfy all conditions and requirements provided by RCW 82.08.0263 to qualify for the retail sales tax exemption. Failure to meet these requirements will require the lessor to collect the retail sales tax on the lease as provided in (c) of this subsection.

(b) Sales of component parts of motor vehicles and trailers and charges for repairs, etc. RCW 82.08.0262 provides an exemption from the retail sales tax for sales of component parts and repairs of motor vehicles and trailers. This exemption is available only if the user of the motor vehicle or trailer is the holder of a carrier permit issued by the ICC or its successor agency that authorizes transportation by motor vehicle across the boundaries of Washington. Because carriers are required to obtain these permits only when the carrier is hauling for hire, the exemption applies only to parts and repairs purchased for vehicles that are used in hauling for hire. The exemption includes labor and services rendered in constructing, repairing, cleaning, altering, or improving such motor vehicles and trailers.

(i) This exemption is available whether the motor vehicles or trailers are owned by, or operated under contract with, persons holding the carrier permit. This exemption applies even if the motor vehicle or trailer to which the parts are attached will not be used sub-

stantially in interstate hauls, provided the vehicles are used in for hire hauling.

(ii) The seller must retain as a part of its records a completed exemption certificate. This certificate may be:

(A) Issued for each purchase;

(B) Incorporated in or stamped upon the purchase order; or

(C) In blanket form certifying all future purchases as being exempt from sales tax. Blanket exemption 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.

(iii) The buyers' retail sales tax exemption certificate is available on the department's website at dor.wa.gov, or can be obtained from the department using the address provided in (a) of this subsection.

If the department's buyers' retail sales tax exemption certificate is not used, the form used must be in substantially the following form:

Exemption Certificate

The undersigned hereby certifies that it is, or has contracted to operate for, the holder of a carrier permit, No., issued by the Interstate Commerce Commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state. The undersigned further certifies that the motor truck or trailer to be constructed, repaired, cleaned, altered, or improved by you, or to which the subject matter of this purchase is to become a component part, will be used in direct connection with the business of transporting therein persons or property for hire; and that such sale and/or charges are exempt from the Retail Sales Tax under RCW 82.08.0262. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

Dated.....

.....
(name of carrier-purchaser)

.....
(address)

By.....

(title)

(c) **Taxable sales.** Sales that do not qualify for exemption under the provisions of RCW 82.08.0262 or 82.08.0263, are subject to the retail sales tax or deferred sales tax when sourced to Washington as follows.

(i) Sales, including single payment leases, are sourced under the general sourcing provision of RCW 82.32.730.

(ii) All recurring periodic lease payments are sourced to the primary property location provided by the lessee to the lessor.

[Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 15-15-028, § 458-20-174, filed 7/7/15, effective 8/7/15. Statutory Authority: RCW 82.32.300, 82.01.060(2), 82.08.0262, and 82.08.0263. WSR 08-14-018, § 458-20-174, filed 6/20/08, effective 7/21/08. Statutory Authority: RCW 82.32.300. WSR 97-11-022, § 458-20-174, filed 5/13/97, effective 6/13/97; WSR 94-18-003, § 458-20-174, filed 8/24/94, effective 9/24/94; WSR 83-07-033 (Order ET 83-16), § 458-20-174, filed 3/15/83; Order ET 71-1, § 458-20-174, filed 7/22/71; Order 70-3, § 458-20-174 (Rule 174), filed 5/29/70, effective 7/1/70.]