

WSR 22-24-103

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 6, 2022, 4:31 p.m., effective January 6, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 458-20-265 to reflect 2022 legislation, ESB 5800, which changes the period that a requestor for the credit must report, to the employment security department, at least 100 average employment positions with an average annualized wage of \$80,000.

Citation of Rules Affected by this Order: Amending WAC 458-20-265.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Adopted under notice filed as WSR 22-20-072 on September 30, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 6, 2022.

Atif Aziz
Rules Coordinator

OTS-4129.1

AMENDATORY SECTION (Amending WSR 17-09-089, filed 4/19/17, effective 5/20/17)

WAC 458-20-265 Sales and use tax exemption—Airplane maintenance repair stations. (1) (a) **Introduction.** This rule explains the retail sales and use tax exemption, as described in RCW 82.08.025661 and 82.12.025661, for the construction of airplane maintenance repair stations operated by an eligible maintenance repair operator.

(b) **Other rules that may apply.** Readers may also want to refer to additional rules for further information, including the following:

(i) WAC 458-20-229 Refunds.

(ii) WAC 458-20-267 Annual tax performance reports for certain tax preferences.

~~((iii) WAC 458-20-268 Annual surveys for certain tax preferences.))~~

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

(a) **"Airplane maintenance repair station"** has the same meaning as "repair station" adopted by the National Air Transportation Association and is a maintenance facility that has a certificate issued by the Federal Aviation Administration under Title 14 of the Code of Federal Regulations (14 C.F.R.) Part 145 that is engaged in the maintenance, preventive maintenance, inspection, alteration of airplanes, and alteration of airplane products.

(b) **"Commercial airplane,"** as defined in RCW 82.32.550(1), is an airplane certified by the Federal Aviation Administration for transporting persons or property, and any military derivative of such an airplane.

(c) **"Component,"** as defined in RCW 82.32.550(2), means a part or system certified by the Federal Aviation Administration for installation or assembly into a commercial airplane.

(d) **"Eligible maintenance repair operator"** means a person classified by the Federal Aviation Administration as qualified to operate a Federal Aviation Regulation Part 145 certified repair station that is located in an international airport owned by a county with a population greater than (~~one million five hundred thousand~~) 1,500,000.

(e) **"Operationally complete"** means constructed to the point of being functionally capable of hosting the repair and maintenance of airplanes.

(3) **Retail sales or use tax exemption.**

(a) Subject to the requirements of RCW 82.08.025661 and this rule, state and local retail sales and use taxes do not apply to the items and services as described in (b) of this subsection that are charged or sold to, or purchased or used by:

(i) An eligible maintenance repair operator engaged in the maintenance of airplanes; or

(ii) A port district, political subdivision, or municipal corporation, if the new airplane maintenance repair station is to be leased to an eligible maintenance repair operator engaged in the maintenance of airplanes.

(b) The exempt items and services include:

(i) Labor and services to construct a new airplane maintenance repair station;

(ii) Tangible personal property that will be incorporated as an ingredient or component during the course of constructing the new airplane maintenance repair station; and

(iii) Labor and services to install, during the course of constructing the new airplane maintenance repair station, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(c) To qualify for the exemption described in this rule, the port district, political subdivision, or municipal corporation must have first entered into an agreement with an eligible maintenance repair operator to build the new facility, prior to starting construction of the new facility.

(4) **Remittance application.** The exemption described in this rule is a remittance.

(a) A business claiming the state and local retail sales or use tax exemption must first pay all applicable state and local retail sales or use taxes on all purchases qualifying for the exemption under subsection (3)(b) of this rule.

(b) The business may then file a quarterly remittance application with the department for the previously paid retail sales or use tax that is determined by the department to qualify for the exemption. The

remittance form may be sent electronically to the department or to the mailing address found in (b)(ii) of this subsection.

(i) The remittance application must specify and separately identify the amount of the exempted state and local retail sales and use taxes claimed and the qualifying purchases or acquisitions for which the exemption is claimed, along with any supporting documents required by the department. Refer to the department's website at (~~dor.wa.gov~~) <https://www.dor.wa.gov> for documentation requirements.

(ii) The application for remittance is titled "Application for Refund or Credit" and is available on the department's website at (~~dor.wa.gov~~) <https://www.dor.wa.gov>. You may also contact the telephone information center at (~~800-647-7706~~) 360-705-6705 or write to the following address:

Attn: New Construction for FAR Part 145
Repair Station Refunds
Taxpayer Account Administration Division
Department of Revenue
P.O. Box 47476
Olympia, WA 98504-7476

(c) Local retail sales and use taxes that qualify for this exemption are eligible for remittance beginning on the exemption's effective date of July 1, 2016.

(d) State retail sales and use taxes that qualify for this exemption are eligible for remittance the later of either:

(i) The date on which the airplane maintenance and repair station has been operationally complete for four years; or

(ii) December 1, 2021.

(e) The business must provide written notice to the department when the maintenance and repair station is operationally complete as defined in subsection (2)(e) of this rule. The notice should be sent electronically to the department or to the mailing address found in (b)(ii) of this subsection.

(f) The state and local retail sales and use taxes described in this rule are not eligible for remittance on purchases of items or services under subsection (3)(b) of this rule that occur on or after the exemption's expiration date of January 1, 2027.

(5) Department must determine eligibility.

(a) The department must determine eligibility for the exemption based on information provided by the business and through audit and other administrative records.

(b) The business must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this rule, construction invoices and documents including, but not limited to, invoices, proof of tax paid, and documents describing the location and size of new structures.

(c) By the end of the calendar quarter that follows the quarter in which the refund application was submitted, the department will remit qualified exempted amounts to a qualifying business, in accordance with subsection (4)(c) and (d) of this rule, for local and state retail sales and use taxes.

(d) The department may not remit the state portion of the retail sales and use taxes paid if the business did not report at least (~~one hundred~~) 100 average employment positions to the employment security department for (~~September~~) October 1, 2020, through September (~~1~~) 30, 2021, with an average annualized wage of (~~eighty thousand dollars~~) \$80,000. The business must provide the department with the un-

employment insurance number provided to the employment security department for verification of employment levels.

If a new airplane maintenance repair station owned by a port district, political subdivision, or municipal corporation is leased to an eligible maintenance repair operator engaged in the maintenance of airplanes, only the business lessee, and not the lessor, must meet the employment requirement described in (d) of this subsection.

(6) **Annual tax performance report ((and annual survey required))**. An eligible maintenance repair operator receiving a remittance under this rule must electronically file an annual report with the department (~~(an annual report under)~~) in accordance with RCW 82.32.534 (~~(and an annual survey under RCW 82.32.585)~~). For more information about filing an annual report (~~(or survey)~~), see WAC 458-20-267 and visit the department's website at ((dor.wa.gov)) <https://www.dor.wa.gov> or contact the telephone information center at ((800-647-7706)) [360-705-6705](tel:360-705-6705).

[Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 17-09-089, § 458-20-265, filed 4/19/17, effective 5/20/17.]