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**Washington State Sales and B&O
Taxes for Churches and Ministries**

The presentation will begin shortly...

CPE needed?

Within one week, send an email requesting CPE, complete the course evaluation, and include the list of CPE codes provided during the presentation to:

info@battershellnichols.cpa

(Only available for those attending live)

All CPE codes are provided in the presentation via polls.

Remote Accounting Services

- We provide bookkeeping services to churches and Christian nonprofits including:
 - Produce a monthly financial report for leadership
 - Process contributions and bills
 - Record all transactions in the general ledger
 - Reconcile bank accounts, credit cards, and close the books each month
 - Process payroll and file all quarterly and annual payroll forms
 - Provide budget and cash flow projection oversight
 - Give assistance with internal controls

Remote Accounting Services

- Why do we provide this service?
 - With online software solutions dramatically improving, outsourced bookkeeping has become a popular alternative to in-house bookkeeping
- Top reasons our clients use our remote accounting services:
 - Managing finances distracts the organization from its mission
 - Leadership and members have increased confidence in their finances
 - Tax and accounting regulations are complex and changing faster than ever
 - They want a trusted advisor to provide CPA oversight

DISCLAIMER:

- *The author is not engaged by this text or webinar in the rendering of tax, accounting, or similar professional services.*
- *While the tax and accounting issues discussed in this material have been reviewed with sources believed to be reliable, concepts discussed can be affected by changes in the law or in the interpretation of such laws since this text was printed. For that reason, the accuracy and completeness of this information and the opinions based thereon cannot be guaranteed.*
- *Before taking any action, all references and citations should be checked for accuracy and completeness, and updated accordingly.*



Washington State Sales and B&O Taxes for Churches and Ministries

September 25, 2024

By: Rick Battershell, CPA

Washington Administrative Code (WAC) 169-20-169 introduction:

1. Unlike the tax systems of most states and the federal government...
2. Washington's business and occupation (B&O) tax is imposed on all entities (including churches and nonprofits) that generate gross receipts or proceeds, **unless there is a specific statutory exemption or deduction.**
3. This WAC describes the most common B&O, retail sales, and use tax exemptions and deductions that are specifically provided to nonprofit organizations by state law.

Exemptions from B&O, Sales, & Use Taxes

Includes receipts from:

- 1) Charitable contributions
- 2) Real estate rentals – 24/7 rentals (see prior webinar)
- 3) Camps and conference centers – on property exempt from tax under RCW 82.04.363
- 4) Tuition charged by schools approved by the Washington State Board of Education
- 5) Tuition from day care provided for care of children of any age for periods of less than 24 hours by a church that is exempt from property tax under RCW 82.36.020
- 6) Tuition for the care or education of children who are under 8 years of age and not enrolled in or above the 1st grade is exempt from B&O tax by non-church organizations
 - Not discussing new exemption effective October 1, 2024 for businesses primarily (more than 50%) engaged in providing child care. RCW 82.04.2905
- 7) Certain “fundraising” activities (discussed more detail later)

Fundraising Exemption

WAC 458-20-169(5)(g)

Requirements:

- 1) Organization is exempt from IRS taxes under IRC Sec 501(c)(3), AND
- 2) Engaging in a "fundraising activity"- which means soliciting or accepting contributions of money or other property, or activities involving the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited, for furthering the goals of the nonprofit organization, AND
- 3) The activity does not take place in a regular place of business in which services are provided or sales are made during regular hours such as a bookstore, thrift shop, restaurant. It also does not include the operation of a regular place of business from which services are provided or performed during regular hours. A regular place of business and the regular hours of that business depend on the type of business being conducted.

Example: A church group, that raises money for mission trips or other youth or adult activities, sets up an espresso stand that is open for two hours every Sunday morning during the year. Are the espressos taxable?

Answer: The espresso stand is a regular place of business with regular hours for that type of business. The money earned from the espresso stand is not exempt, even though the amounts are raised to further the church's nonprofit purpose.

“Suggested Donations”

(Washington State Business & Occupation Tax)

Question: If a church provides food and beverages after services for a “suggested donation”, is this subject to sales or B&O taxes?

DOR Response: Generally donations are not subject to business and occupation (B&O) or retail sales tax as long as the donor does not receive any significant goods or services in exchange for the donations.

- 1) If the meals are only available for providing a suggested donation amount or more, then the food would be subject to B&O tax under the “**Retailing**” classification and sales tax must be collected.
- 2) Assuming this is a true donation, where people can partake in the same food without donating, then the income received is not subject to business and occupation (B&O) tax or retail sales tax.

Excise Tax Advisory 3082.2009: If the meal provider posts signs, prints tickets, or suggests so-called donation amounts expected to be paid by meal consumers, then retail sales do occur and retail sales tax must be collected. A sign posted such as "Donation \$5.00" creates a taxable transaction, whereas a sign such as "Donations accepted to support this program" will not be deemed to create a taxable situation.

Washington State Combined Excise Tax Return Common Classifications For Churches And Ministries

► Use Black Ink & Return the Original Form

I STATE BUSINESS AND OCCUPATION TAX

Line No.	Tax Classification	Code	Column 1 Gross Amount	Col. 2 Deductions* Totals from Pg. 3 & 4	Column 3 Taxable Amount	Col. 4 Rate	Column 5 Tax Due
15	Service & Other Activities and/or Gambling Contests of Chance (less than \$50,000 a year)	04				.015	
16	Service & Other Activities (\$1 million or greater in prior year)	106				.0175	
17	Gambling Contests of Chance (\$50,000 a year or greater)	192				.017	
18	For Profit Hospitals; Scientific R&D	135				.015	
19	Retailing of Interstate Transportation Equip	19				.00484	
20	Retailing	02				.00471	

Computing Taxes

(Washington State Business & Occupation Tax)

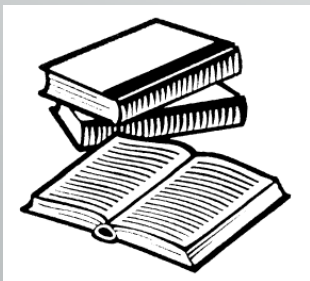
2023 cash received for:	Amount	B&O tax	Sales tax 10% assumed
Charitable contributions	\$500,000	N/A	N/A
Espresso & coffee sales	\$3,000	\$14.10	\$300.00
Class and retreat fees	\$5,000	\$75.00	N/A
Church rental fees (e.g. Sunday afternoons)	\$48,000	<u>\$720.00</u>	N/A
		\$809.10	
B&O taxes after small business credit	\$0	<u><\$809.10</u> ≥	
Net tax		\$0.00	\$300.00

Classes Held For Members

(Washington State Business & Occupation Tax)

Question: Should churches be paying B&O tax on receipts from church events which are held on church property, such as classes held for members of the church, which are educational and religious in nature? Fees for exercise classes?

DOR Response: Yes. In Washington, nonprofit organizations, including churches, are generally taxed like any other business. They must pay business and occupation (B&O) tax on gross revenues generated from regular business activities they conduct. Therefore, the church must report B&O tax on the charges for all classes held at the church.



Church Men's or Women's Retreat (Washington State B&O and Sales Taxes)

Question: Our church men's and women's retreats start Friday evening and run through Sunday morning. They include snacks meals and lodging. Are the collection of fees for these retreats subject to Washington state B&O or sales tax?

DOR Response: If the retreat is conducted on property exempt from property tax under RCW 84.36.030(1),(2), or (3) the fees received by the church for the men's and women's retreats would be exempt from business and occupation tax and the retail sales tax.

However, if the retreat is conducted on property not exempt from the property tax under the RCW cited above, the church must report retailing B&O and collect and report sales tax on the fees received for the men's and women's retreats.

B&N Note: RCW 84.36.030(1),(2), or (3) = this includes property owned by nonprofit organizations for which a Washington State property tax exemption has been given for character-building, or which is owned by a church and utilized as a camp facility. (Church property tax exemption for use by a local congregation for weekly services is found under a different section = RCW 84.36.020)

Parking Space Rentals

(Washington State B&O and Sales Taxes)

Question: A large employer wants to use 50 parking stalls in the church parking lot between the hours of 6 AM and 8 PM on Monday through Friday. The term of the lease is 12 months for \$1000 per month. Is this lease subject to B&O or sales taxes?

DOR Response: Yes. The church is required to collect retail sales tax on the charge for parking and the gross income is subject to the B&O tax under the “**Retailing**” classification.



Facility Rentals

(Washington State B&O and Sales Taxes)

Question: The only amounts received by the church are donations and rental income from another church using our facility a few days per week. Is this rental income subject to B&O taxes?

DOR Response: Amounts received that are considered donations are not subject to business and occupation (B&O) tax. But the amounts received for renting your facility to another church are generally subject to B&O tax.

Long-term real property rentals (24/7 use for at least 30 continuous days) are exempt from tax.

However, **part-time use** (considered “licenses to use” the real property) are subject to B&O tax under the **Service and other activities** classification.

Keep in mind that the church or ministry will not owe B&O tax until the income exceeds the small business tax credit of \$160 per month. (e.g. \$10,667 of services and other activities x .015 = \$160).

B&N Note: Rental fees charged for use of the church for weddings or other uses are also subject to B&O tax under the “service and other activities” classification.

Cell Tower Rental

(Washington State B&O Taxes)

Question: Is the rental of space on a cell tower owned by a nonprofit subject to B&O taxes?

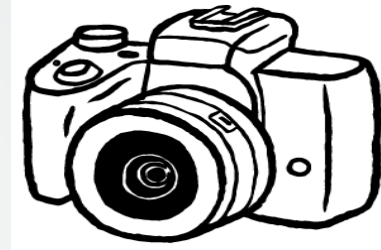
DOR Response: Based on WAC 458.20.211, this income is most likely subject to business and occupation (B&O) tax.

B&N Note: Rental income for the long-term lease of land, upon which a the cell tower operator constructs and operates a tower, would NOT be subject to B&O tax under the real estate rental exemption. See WAC 458-20-118.



Photography Services vs. Sales of Photos (Washington State sales tax)

See: <https://dor.wa.gov/education/industry-guides/photography-tax-guide>



Example: An organization hires a photographer. The photographer charges a flat fee for his services and provides a CD with the digital photographs. The photographer clearly indicates on the invoice that *he gives the user all rights* to use the photographs. Is this service subject to sales tax?

Answer –no, this would be considered “Photography for hire” per DOR ruling in 2022.

NOTE: make sure it is clear that the organization is really just hiring the photographer for the “service”, as the photography guide says: “**Example 8:** A Tacoma couple hires a local photographer to take pictures at their daughter’s sixteenth birthday party. The birthday party is held at a restaurant in Seattle. After the party, the photographer sends a CD with the finished images to the couple by mail, at their Tacoma address. The Tacoma sales tax rate applies.

Example: An organization hires a photographer to take pictures of its church members, prepare a church directory, and provide 200 copies of the directory. Is this service subject to sales tax?

Answer #10 – Yes. When the photographer is hired to take pictures and create a directory, the charge for taking the pictures is essentially a “sitting fee”. The entire amount charged by the photographer is subject to retail sales or use tax.

Collecting Funds for Youth Outing (Washington State B&O and Sales Taxes)

Question: A church has youth or other groups going on a group activity outside the church and collects funds in advance to make it easier at the gate and to confirm payment for all the individuals who are attending. Is this subject to sales or B&O taxes (e.g. the church youth leader collects the \$10 fee charged by the business location for attending plus \$5 for pizza after the event)?

DOR Response: If the church collects money to purchase an activity for its church youth group, this activity is not considered a taxable business activity (assuming the price is not marked up to create a profit). Therefore, the fees charged would not be subject to business and occupation (B&O) or retail sales tax and do not need to be reported on the Washington excise tax return as income.

Sales Tax Exemption on Purchases in Washington?

- Unlike some other states
- A nonprofit organization must pay retail sales tax when it purchases goods or retail services for its own use as a consumer, unless:
 1. The purchase is specifically exempt by statute.
 - See “fund-raising exemption” discussed later
 2. Items purchased for resale without intervening use are purchases at wholesale and are not subject to the retail sales tax:
 - if the seller takes from the buyer a copy of the buyer's reseller permit. The reseller permit documents the wholesale nature of any sale.
 - For additional information on reseller permits see WAC 458-20-102

Reporting Sales and Use Taxes

Local and State

II STATE SALES AND USE TAX								
Line No.	Tax Classification	Code	Gross Amount	Deductions* Totals from Pg 4	Taxable Amount	Rate	Tax Due	
29	Retail Sales (also complete local tax section III)	01				.065		
30	Use Tax/Deferred Sales Tax (also complete local use tax section III)	05		Value of articles used by taxpayers as a consumer on which no Washington sales tax has been paid.		.065		
TOTAL STATE SALES & USE TAX								

III LOCAL CITY AND/OR COUNTY SALES AND USE TAX							
Local Sales Tax (Enter applicable rate of tax) Total Taxable Amount must be the same as line 29, column 3, Taxable Amount					Code 45		
Line No.	Location Code	Taxable Amount	Local Rate	Tax Due			
31							
32							
33							
TOTAL TAXABLE				TOTAL			

Local Use Tax/Deferred Sales Tax (Enter applicable rate of tax) Total Value of Articles must be the same as line 30, column 1, Gross Amount					Code 46		
Line No.	Location Code	Value of Articles	Local Rate	Tax Due			
34							
35							
36							
TOTAL VALUE OF ARTICLES				TOTAL			

Use Taxes on Purchases in WA State

- “Use tax” must be paid by all who purchase items at retail in Washington State (including churches and nonprofit organizations) if the retail sales tax has not previously paid by that person on the item - unless an exemption applies.
- The amount of “use tax” = the same rate of tax as the retail sales tax rate that applies at the location where the property is first used.

Example #1: First Church Christian Education Department purchases \$985 of curriculum from the church’s denominational offices, which are out of state and no sales tax is charged. Is the church supposed to pay use tax on these sales?

Answer #1 – YES

Example #2: Is the church still required to pay Washington State sales tax if the church pays its out of state denominational offices their state sales tax at 4%?

Answer #2 – YES - however there is a credit for the sales tax already paid.

Use Taxes on Purchases in WA State:

Example #3: A church member sells the church her grand piano for \$15,000, which does not include sales tax. Is the church required to pay use tax?

Answer #3 – YES

Example #4: A donor, who is a contractor, bills First Church for construction costs on a remodel project, but the contractor does not charge sales tax for the work. Is the church required to pay use tax?

Answer #4 – YES



Background Checks vs. Credit Worthiness Checks (Washington State sales tax)

Example: An organization pays a per person fee for a background check that excludes checking for credit worthiness. Is this service subject to sales tax?

Answer – The cost for this background check is not subject to sales/use tax.

Example: An organization pays a per person fee for a background check that includes checking for credit worthiness. Is this service subject to sales tax?

Answer - The cost for the entire background check is subject to sales/use tax. WAC 458-20-15503 (601).

Not sure if something is subject to Washington State tax?

Question: How can I know for sure about exceptions, or how can I determine if a specific payment requires use tax?

Answer – **When in doubt, ask the Washington State Department of Revenue to spell it out!** The exceptions and details on the revenue codes are very complicated, so **please note this presentation does not include every situation or exception.** If you have **ANY** doubt, ask the State of Washington for a written ruling. You can do this by using your online access to send an email online.

Important: Keep a copy of the email and response in case of an audit.

<https://dor.wa.gov/contact/request-tax-ruling>

Registration and Tax Reporting (WAC 169-20-101)

1. With the exceptions noted on the next slide, every entity who is engaged in any business activity ...must apply for and obtain a tax registration endorsement with the WA State Department of Revenue.
 - a) Applies to entities including churches and other 501(c)(3) ministries (RCW 82.04.030 and WAC 458-20-203)
 - b) Applies to all who should collect sales taxes
2. This endorsement is printed on the face of the business license document.

When Registration Is Not Required:

(WAC 169-20-101)

1. When there is less than \$12,000 per year of gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW (business and occupation (B&O) tax), **and**
2. If the organization is not required to collect or pay retail sales tax (e.g. no retail sales) nor any other tax, **and**
3. The organization is not otherwise required to obtain a business license.

When Tax Filing “Active Nonreporting Status”: (WAC 169-20-101)

The Department may relieve any entity of the requirement to file returns by placing them in an active “non-reporting” status if all of the certain conditions are met, including:

1. Less than \$24,000 per year of gross proceeds of sales, or gross income of the business, from all business activities,
2. Less than \$48,667 per year of gross receipts if at least 50% of activities are taxable under “service and other activities” B&O tax classification,
3. Not required to collect or pay retail sales tax or any other tax,
4. Responsibility to notify Department about change in status (if their activities do not meet any of the conditions for “non-reporting” status).

Registration and Tax Reporting – Example

(WAC 169-20-101)

Example: First Church is opening a bookstore to sell Bibles and Christian books to its members. The gross proceeds of sales are expected to be less than \$12,000 per year. Must the church register with WA State Department of Revenue?

Answer: First Church must apply for and obtain a tax registration endorsement with the WA State Department of Revenue. While gross income is expected to be less than \$12,000 per year, First Church is still required to collect and remit retail sales tax when books are sold.



Registration and Tax Reporting (WAC 169-20-101)

Question: Do churches and non-profits really need to worry about this?

Answer: Yes.

1. Several churches and nonprofit organizations have been audited by the Washington State Department of Revenue and were billed for substantial, unpaid taxes.
2. The audit period used by the state is the previous 4 calendar years, plus the current year through the end of the last completed calendar quarter.
3. If the state finds an instance in which use or sales tax was not paid, they often use the amount from their sample and extrapolate that percentage over the entire period to determine the tax liability.
4. Potential back taxes and penalties can be costly.

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Next Webinar



Developing a Culture of Generosity Within a Church

With Kirsten Schwartz from Generous Giving

October 25th, 2024

1:00 – 2:00 p.m.



Thank you for joining us!

Please reach out with any questions:

info@battershellnichols.cpa

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