

Staffing industry

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This guide will assist the staffing industry in determining how to report their gross income and when to collect state and local retail sales tax. For additional information or answers to questions about Washington excise taxes, please [contact us](#).

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Overview

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The staffing industry provides workers who perform a variety of business activities, including services such as construction, customer software design and implementation, manufacturing and light industrial activities, other skilled and unskilled labor, clerical, and other professional services.

The gross income received by a staffing business for each of these activities is subject to the business and occupation (B&O) tax. The nature of the activity determines the appropriate classification and tax rate. In addition, staffing businesses must collect retail sales tax and remit the collected tax to the state on all income subject to the retailing classification of the B&O tax unless a specific statutory exemption applies.

Taxable income

The tax owed by a staffing business is based on the gross income received for the work performed and the services provided. Generally, no deduction is allowed from gross income for payroll or any other expenses incurred by the business.

B&O tax classification & retail sales tax

A staffing business is subject to tax based on the services provided to customers through their workers. This means the gross income received by the staffing business is subject to the classification of the business and occupation tax that applies to that activity.

When a worker performs an activity defined as a retail sale, the staffing business must collect sales tax from its customer. If a retail-type service is performed for a person that resells that service, such as construction work performed for a general contractor, sales tax is not collected. Instead, the staffing business is required to obtain a reseller permit from the contractor and report such charges for the worker under the Wholesaling B&O tax classification (RCW 82.04.050).

Identifying the proper B&O tax classification

A staffing business is responsible for determining the applicable B&O tax classification for the activity to be performed by the worker. This determination should be made prior to dispatching the worker to the customer. It is important for the staffing business to know whether retail sales tax should be collected from the customer, or if an exemption certificate or other documentation should be obtained from the customer as evidence of a sales tax exemption.

Note: The staffing business should not assume that the income it receives through the activities of its workers is subject to tax under the same classification that the customer reports under.

The activity or service performed by the worker may be classified differently for tax purposes from the classification reported by the customer. For example, a person operating an insurance agency is taxable under the Insurance Agents B&O tax classification. If a temporary staffing business provides a receptionist for the insurance agency, the gross income received for the worker's services is subject to B&O tax under the Service and Other Activities classification. This is because the receptionist is not providing services under the authority of an insurance agent's license.

If the staffing business provides a worker who is licensed as an insurance agent to an insurance agency, and the worker performs services under the authority of that license, the related income is taxable under Insurance Agents B&O tax classification. In all cases, the staffing business must look to the activity engaged in by the worker, regardless of the nature of the customer's business.

Examples for classifying income

Below are descriptions of the major B&O tax classifications and examples of the activities that fall within those classifications.

Retailing

Retailing B&O tax applies to gross income received for repairing, altering, or improving real or personal property for the property owner, even in those cases where only labor is provided. In addition, retail sales tax must be collected from the customer. Examples of retail services include:

- Carpentry
- Clearing land
- Commercial construction
- Concrete work
- Demolition
- Electrical work
- Excavation work
- Installation of canned software
- Installation of personal property
- Landscape maintenance
- Moving earth
- Painting
- Paper hanging
- Plastering/Drywall installation
- Repairs of computer hardware
- Residential construction
- Roofing
- Sheet metal installation
- Site cleanup
- Water/Sewer/Utility line installation

Retail sales tax exemptions (documentation required)

All retail sales are subject to sales tax unless the customer provides documentation to establish its exemption from the retail sales tax. With documentation, certain retail sales and services are exempt from the retail sales

tax. Examples include repair and/or maintenance of certain manufacturing machinery and equipment, and repair and/or maintenance of carrier property used substantially in interstate commerce.

In all cases where the customer claims exemption from retail sales tax, the client must provide the staffing business with a properly completed exemption certificate. The [Buyers' Retail Sales Tax Exemption Certificate](#) (pdf) is used to document retail sales tax exemptions.

Wholesaling

Wholesaling B&O tax applies to income received for repairing, altering, or improving real or personal property for someone other than the property owner, even in those cases where only labor is provided. The gross income billed to the customer for wholesaling activities must be reported under the Wholesaling classification of the B&O tax. Retail sales tax is not collected. Examples include construction services performed for a prime contractor or subcontractor and repair work performed for a repair shop. In both of these examples, the labor is used by the customer to produce something for resale.

Specific documentation required: The customer must provide the staffing business with a reseller permit.

Manufacturing

A manufacturing activity is any activity of a commercial or industrial nature where labor or skill is applied, by hand or machinery, to materials so that as a result a new, different or useful substance or article of tangible personal property is produced for sale or for commercial or industrial use. A person who engages in a manufacturing activity is generally subject to either the manufacturing B&O tax or processing for hire B&O tax, depending on whether or not the materials upon which the activity is performed belongs to that person.

Persons report under the manufacturing classification when they perform manufacturing activities on materials that belong to them. The manufacturing B&O tax applies against the value of articles or substances manufactured in Washington. The B&O tax under this classification applies whether the resulting product is used by the manufacturer or is delivered to the customer within or outside this state.

Specific documentation required: The person taxable under the manufacturing classification must either obtain a reseller permit from their customer or collect retail sale tax on their sales of the manufactured items.

Processing for hire

Persons report under the processing for hire classification when they perform manufacturing activities on materials that belong to someone else. Thus, a processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon his or her own materials. Examples include producing a fully or partially completed item from raw materials provided by the customer; assembling parts provided by the customer to produce a fully or partially completed item; performing a function on an assembly line that alters tangible personal property; and operating machinery on an assembly line that alters tangible personal property. The processing for hire B&O tax applies against the total charge for the processing services, including any charge for materials furnished by the processor.

Specific documentation required: The person taxable under the processing for hire classification must either obtain a reseller permit from their customer or collect retail sale tax on their charges for the processing services, including any charge for the materials they furnish.

Service and other activities

The Service and Other Activities classification may be considered a "catch-all" classification of the B&O tax. It applies to any business activity for which a specific rate is not provided under the law, or which is not

specifically exempt from excise taxes by statute. In general, it includes personal and professional services. Examples include:

- Accounting services
- Architectural design
- Beauty shop services
- Bookkeeping and payroll services
- Call center staffing
- Computer consulting services
- Computer programming
- Consultants
- Detective services
- Engineering services
- Hair cutting and styling
- Health care services
- Housecleaning services
- Housekeeping
- Inspecting
- Janitorial services
- Laboratory work
- Legal services
- Licensed Massage Therapy
- Property appraisal
- Secretarial/clerical services
- Software designing
- Stenography services
- Surveying
- Teaching
- Web design services

The Service and Other Activities classification includes merely inspecting, sorting, counting, moving, packing, loading, or unloading or operating machinery that performs these tasks even when they are performed at a manufacturing facility.

Special B&O tax rates - specific licenses required

Some activities may require the worker to have a special license or certification through the Department of Licensing. Generally, whether the worker has a license does not affect the application of tax. For example, income received from the activities of a health care worker is subject to the Service and Other Activities classification whether the activity requires a licensed physician or requires no license at all.

However, certain licensed professions have a special classification of the B&O tax classification that is lower than the Service and Other Activities classification. In order to take advantage of the lower B&O tax classification, the worker provided by the staffing business must hold the appropriate valid license and perform services under authority of the license. An example of this is seen in the Insurance Agents classification.

Public utility tax - motor or urban transportation

The public utility tax is a tax on gross receipts, similar to the B&O tax. It applies to most utility services, such as water, power, and gas distribution, and sewerage collection. It also applies to providing transportation of persons or property for hire within five miles of the city limits (Urban Transportation classification) and beyond (Motor Transportation classification). These classifications apply whether or not the person performing the work owns the vehicle with which the activity is being performed.

Examples include:

- taxi cab service
- limousine service
- hauling goods belonging to others (hauling for hire)

See [WAC 458-20-180](#)

Engaging in more than one activity

Engaging in more than one activity

A worker provided by a staffing business may be required to engage in several different activities while on the same job that by themselves are subject to tax under different B&O tax classifications. Generally, the Department of Revenue will allow the income to be reported based on the predominant activity. "Predominant activity" will be considered to apply where for any given charge, more than 50 percent of the time is spent working in one tax classified activity, and the billing is not segregated with respect to the minor activity.

In the absence of segregated charges for each activity, where there are more than two different B&O tax classifications that may apply to the activities performed, the classification that will apply for reporting purposes will be the one applicable to the activity the worker spends the greatest amount of time doing.

Please note that when two or more workers, engaged in different activities, are provided to one customer, the income from each worker is reported based on their predominant activity.

Examples

1. A staffing business provides a housekeeper whose primary job is to clean an apartment (subject to the Service and Other Activities classification). The job also calls for the housekeeper to prepare one meal per day (subject to Retailing B&O tax and retail sales tax). The majority (over half) of the charge is associated with the housekeeping service (apartment cleaning). No segregated charge is made for the preparation of the meal. In this case, the predominant activity is cleaning the apartment. Therefore, the gross income received by the staffing business is reportable under the Service and Other Activities classification. Retail sales tax will not apply.
2. A staffing business provides a construction worker to a developer/property owner to perform construction-related services (subject to the Retailing B&O tax and retail sales tax). The worker has a commercial driver's license and is only occasionally required to drive the developer's truck within the city to pick up a load of gravel (an activity subject to the Urban Transportation public utility tax). The worker also spends about one hour per day helping in the office. The predominant activity is performing construction work for a property owner since the greatest amount of time is spent performing retailing activities, and there is no segregated charge for the other lesser activities. In this case, the staffing business is subject to the Retailing B&O tax on the gross amount charged to the developer. Retail sales tax also must be collected by the staffing business on the gross charge to the customer.
3. Same facts as Example 2, except that the staffing business also provides a receptionist to the developer/property owner. In this case, the staffing business is subject to the Retailing B&O tax on the gross amount charged to the developer for work done by the construction worker. Retail sales tax must also be collected on this charge. The staffing business is subject to Service and Other Activities B&O tax on the gross amount charged to the developer for work done by the receptionist.

B&O tax and public utility tax exemptions and deductions

B&O tax and public utility tax exemptions and deductions

There are limited deductions from the B&O tax and public utility tax. There are no deductions for amounts paid to the worker, amounts deducted for payroll taxes, or any other expenses paid or accrued. See [Deductions](#) for more information.

Income received for work performed outside the state may be deducted from gross income. Similarly, an interstate haul is exempt from the public utility tax. Bad debts on which tax has been paid and which may be written off for federal tax purposes may be deducted.

Note: Exemptions and deductions that may apply to the customer do not automatically also apply to the staffing business. For example, certain nonprofit hospitals may qualify for a deduction for income received through Medicare. Non-profit and public hospitals are taxable on gross income at a special rate. However, the income received by a staffing business for providing physicians, nurses, or other healthcare workers to the hospital is fully taxable under the Service and Other Activities classification because the staffing business does not meet the criteria for the special nonprofit hospital classification, or for the deduction.

Similarly, income received by licensed Adult Family Homes is exempt from tax. However, the gross income received by a staffing business for providing a health care worker or other worker to the Adult Family Home is fully taxable under the Service and Other Activities classification.

Documentation

Documentation

The burden to establish the proper B&O tax classification rests with the staffing business. Because the classification depends upon the services provided by the worker, the staffing company must obtain sufficient information from the customer to classify the income correctly.

Documenting the services provided

The staffing business must keep documentation to show what services their workers perform. All available information should be recorded concurrently with the assignment of the worker and the charge for the service. It is important that the customer's labor and skill requirements are detailed upfront as much as possible prior to dispatch. This is particularly important for purposes of billing retail sales tax.

Documentation may be in the form of a copy of a customer order or other documented request by a customer for a worker. The documentation must state the specific work to be performed, and/or the worker skills requested by the customer. If the customer's request comes in by telephone, the staffing business should ask exactly what type of services are required and write them down on an order form, or as a memo to the customer file. Also, the worker can provide a written explanation of the services actually performed.

Detailed description: Documentation to support the B&O tax classification must be sufficiently detailed to support the classification reported.

The classification of primary interest to the customer is Retailing. Only under Retailing is the seller of the service required to collect retail sales tax from the end user. Any other classification which does not directly impact the customer may be of less interest to the customer. Nevertheless, because the rates usually vary between classifications, it is in the staffing business' best interest to gather enough information to classify all services correctly.

Default to higher rate: When the nature of the activity performed by the worker is not documented in such a way to clearly establish the proper classification, upon audit examination the Department may find it necessary to default to the highest classification rate. This classification may be either the Retailing classification (retail sales tax also applies in this case), or the Service and Other Activities classification.

For example, if it is clear that work is performed for a customer in the construction industry, but it is not clear from the sales documentation that the customer is making a purchase of staffing services for resale, the Department will consider the sale to be retail in nature. Retail sales tax must be collected from the customer. In this case, it must be demonstrated that the customer is not a speculative builder (that is, not the consumer of the services provided). A sale to a speculative builder is a retail sale, subject to the Retailing B&O tax, and retail sales tax is to be collected from the customer.

Incorrectly classified income – amended returns

If, subsequent to filing a return, it is later determined by the staffing business that income has been incorrectly classified, [amended returns](#) should be submitted to the Department to make the appropriate adjustment.

Information leading to a change in classification may occur when visiting or inspecting a new customer's operation. It may be determined by the staffing business that another B&O tax classification applies during a subsequent request for labor, at which time more details of the work assignment are revealed. At such time as it is clear that a different B&O tax classification should apply from the classification reported, a correction should be made on amended returns.

The requirement for filing amended returns is limited to the past four calendar years, plus all returns filed during the current year.

Reliance on the best information available

Staffing businesses are expected to use all information reasonably available for purposes of reporting under the proper tax classification. In all cases, upon review or examination by the Department, all facts and information will be used to verify the classification(s) reported. [Learn more](#) information about our Audit Process.

Customer's responsibility to keep records

The customer has a responsibility to keep sufficient records to document the nature of the goods or services purchased by them. The Department requires the buyer of services to keep sufficient records in order to determine their true tax liability. This includes any liability for retail sales tax, or use tax, due on purchases of goods or retail services. Failure of the customer to retain such records may cause the retail sales tax to be imposed directly on them.

Re-billing for retail sales tax

The customer is obligated to cooperate with the staffing business when documenting any claimed exemption from retail sales tax. Lacking evidence to establish an exemption, the staffing business may re-bill the customer for previously uncollected sales tax.

Re-billing may occur in those cases where additional information is obtained by the staffing business that indicates retail sales tax should have applied to the original billing. It may occur because the work performed by the worker is not as described, or understood, when the worker is dispatched. Until paid either to the Department or to the staffing business, the customer remains legally obligated to pay the sales tax.

Specific B&O tax applications

Specific B&O tax applications

Following is a discussion of specific applications of the B&O tax for a variety of industries. Please also refer to the web site information contained in these discussions. In addition, you may refer to the "[decision trees](#)" that may be helpful in identifying the correct reporting classification for various industries.

Construction

Construction laborers will be presumed to be engaged in retail activities unless otherwise documented. Construction laborers typically perform cleanup, manual hauling of materials at construction sites and perform other skilled and/or unskilled labor. If the construction laborers are engaged by a custom contractor, a reseller permit may be accepted by the staffing business. In this instance, sales tax would not be collected on the income. Instead, the charges would be subject to the Wholesaling B&O tax. For a detailed discussion of the taxability of construction services, please refer to the [Construction Tax Guide](#).

Processing for hire

Workers dispatched to a manufacturer at a manufacturing site, who engage in impressing logos/labels/stickers onto packing or products or otherwise engaged in altering or improving the manufactured product are performing a manufacturing activity. The income received by the staffing business is reportable under the Processing for Hire B&O tax classification. In this case, the staffing business should document the nature of these activities and report the income from these workers under the Processing for Hire classification of the B&O tax.

Processing for hire does not include merely inspecting, sorting, counting, moving, packing, loading, or unloading or operating machinery that performs these tasks even when they are performed at a manufacturing facility.

Note: Processing for hire applies only when producing tangible personal property. It does not apply to construction services.

Processing for hire - special application for staffing businesses: Due to the difficulties in determining the extent to which workers are merely altering tangible personal property rather than creating something new, different, or useful, staffing businesses may elect to report under Wholesaling all income derived from providing temporary workers to manufacturing customers whose labor directly alters such property. This is in lieu of reporting some income under Wholesaling and some income under Processing for Hire. If the staffing business chooses to make inquiry with its client to determine the worker's labor rises to the level of processing for hire, it may separately account for the processing for hire income and report accordingly.

Warehousing activities

[RCW 82.04.280\(2\)\(b\)](#) provides a tax rate of .00484 for businesses engaged in operating a cold storage warehouse or storage warehouse. A "storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation.

The gross income received by a staffing business for workers dispatched to a warehousing business are not classified under the Warehousing B&O tax classification because the staffing business does not operate the warehouse. The Warehousing classification applies only to persons operating a cold storage warehouse or storage warehouse. Instead, the Service and Other Activities classification applies to income derived by providing workers to a warehousing operation. This is true even though the workers may operate forklifts or otherwise move merchandise at a storage facility.

Insurance agent activities

If a staffing business provides a licensed insurance agent to an insurance broker to perform services under the authority of the insurance agent's license, the income received by the staffing business is subject to the Insurance Agents and Brokers B&O tax. ***In all cases, the staffing business must look to the activity engaged in by the worker, regardless of the nature of the customer's business.***

If a staffing business provides a receptionist, or other unlicensed worker to perform office services within an insurance broker's office, the associated charges are subject to the Service and Other Activities B&O tax classification.

Travel agent activities

If a staffing business provides a person who arranges travel, the income received for these services is subject to B&O tax under the Travel Agents Tour Operators B&O tax classification.

If a staffing business provides a receptionist or other worker to perform office services for a travel agency, the income received for this service is subject to the Service and Other Activities B&O tax.

Landscape/lawn maintenance activities

If a staffing business provides a worker to a landscape maintenance business, the income received for such staffing would be subject to Wholesaling B&O tax provided the customer presents the staffing company with a valid reseller permit. The Retailing B&O tax and retail sales tax apply to such charges if the customer does not provide a reseller permit or other evidence that the worker's services are being resold by the customer (see [Wholesaling](#)).

Janitorial services

If a staffing business provides a worker to perform routine janitorial services to a janitorial business, or any other person, such charges are subject to the Service and Other Activities B&O tax. Routine janitorial services include washing interior and exterior window surfaces; cleaning and waxing floors; cleaning interior walls and woodwork; cleaning in place of rugs, drapes and upholstery; dusting; disposing trash; and cleaning and sanitizing bathroom fixtures.

The term "janitorial services" does not include, among others:

- Cleaning exterior walls of buildings.
- Cleaning septic tanks.
- Special clean up jobs required by construction, fires, floods, etc.
- Painting.
- Papering.
- Repairing.
- Furnace or chimney cleaning.
- Removing snow.
- Sandblasting.
- Cleaning plant or industrial machinery or fixtures.

Computer software services

Income received for providing a worker to repair or alter computer hardware is taxable as a retail sale when the services are provided for the owner of the equipment. Retailing B&O tax applies and retail sales tax must be collected from the customer. Income received for services provided to the person who will resell the service to others is taxable under the Wholesaling tax (see [Wholesaling](#)).

Income received from customers or for providing a worker to install pre-written software (also referred to as "standard" and "canned" software - software created for sale to more than one person) is taxable as a retail sale. Retailing B&O tax applies and retail sales tax must be collected. Wholesaling tax applies if workers are provided to customers who will resell the service (see [Wholesaling](#)).

Income received for providing a worker to create custom software (software created for a single customer) or to "customize" pre-written software is taxable as a professional service, subject to the Service and Other Activities B&O tax. Retail sales tax does not apply to such charges. To "customize" pre-written software means any alteration, modification or development of applications using or incorporating pre-written computer software for a specific person. It also includes individualized configuration of software to work with other software and computer hardware, but does not include routine installation of pre-written software.

Stevedoring

Income received from engaging in stevedoring and associated activities is subject to business tax at the rate .00275. Stevedoring and associated activities means all activities of a labor, service, or transportation nature where cargo is loaded/unloaded from vessels involved in waterborne interstate or foreign commerce.

Specific activities taxable under the stevedoring classification are:

- Wharfage.
- Handling.
- Loading.
- Unloading.
- Moving of cargo to a convenient place.
- Documentation services.
- Imported automobile handling.
- Terminal stevedoring.
- Incidental vessel services.

Providing workers to engage in these activities is subject to B&O tax under the Stevedoring tax classification.

Additional resources

Additional resources

[The Audit Process](#)

[Major Taxes in Washington](#)

[Business and Occupation \(B&O\) Tax](#)

[Retail Sales Tax](#)

[Use Tax](#)

Public Utility Tax

[Laws, Rules and Other Guidance for the Staffing Industry](#) (pdf)

[Tax Reporting Requirements for the Staffing Industry](#) (pdf) (Issued June 21, 2005)

[Tax Reporting Requirements for the Staffing Industry](#) (pdf) (Issued January 21, 2005)

[Special Notice – Professional Employer Organizations - Deduction](#)

[ETA 3100](#)

[ETA 3051](#)

[Interim Statement Regarding the Attribution of Receipts from Apportionable Staff Augmentation](#)

[WAC 458-20-19402](#)

Decision trees:

[Insurance Agency Client](#) (pdf)

[Travel Agent Client](#) (pdf)

[Waterborne Shipping Company Client](#) (pdf)

[Computer/Technology Services](#) (pdf)

[Manufacturer Client](#) (pdf)

[Contractor Client](#) (pdf)