

Individual fishing quotas (IFQs)

Individual fishing quotas (IFQs) are a type of “catch share” regulated by the U.S. government. They are permits to harvest specific quantities of fish or shellfish.

IFQ permits held for exclusive use by a person, are intangible rights. There are two different business and occupation (B&O) tax treatments for IFQs depending on whether they are leased or sold.

Lease of IFQs

If an IFQ is leased and the lessor receives compensation for the use of the intangible property, the income is subject to B&O tax under the royalties classification.

The income from the lease of an IFQ is not compensation for the sale of the actual fish but is instead compensation for granting the right to fish and retain a specific share of the total allowable catches. A person may lease an IFQ and not be successful in catching any fish. The permit only grants the right to fish in a specified area and to harvest a certain quantity of fish; it does not guarantee a quantity of fish.

Businesses that have apportionable royalty income from inside and outside of Washington may apportion their income. The royalty income received from the lease of an IFQ would be attributed to the state where the IFQ is used by the lessee to harvest the fish or shellfish. Receipts from the lease of the IFQ would be attributed to Washington to the extent that IFQs are used in Washington by the lessee. For example, an IFQ that allowed for 10% of its use inside Washington’s territorial waters and 90% outside Washington’s territorial waters would result in 10% of the lease receipts attributed to Washington. This example only addresses receipts attributed to Washington and not the final calculation of the receipts factor.

Sale of IFQs

The income from an outright sale of IFQs is not a royalty because it’s not for the use of the intangible asset. Therefore, the gross proceeds from the sale of IFQs would be considered a sale of an intangible asset subject to B&O tax

under the service and other activities classification.

Businesses that have income from inside and outside of Washington may apportion their income based on a single factor apportionment formula. Under this standard, the income received from the sale of an IFQ would be attributed to the state where the IFQ benefits the owner, allowing them to harvest the fish or shellfish. Receipts from the sale of the IFQ would be attributed to Washington to the extent that IFQs grant fishing rights in Washington. For example, an IFQ that allowed for 10% of its beneficial use inside Washington's territorial waters and 90% outside Washington's territorial waters would result in 10% of the sale price attributed to Washington. This example also only addresses receipts attributed to Washington and not the final calculation of the receipts factor.

References

WAC 458-20-19402 – Single factor receipts apportionment-Generally

WAC 458-20-19403 – Apportionable royalty receipts attribution

NOAA Fisheries 



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