

Cite as Det. No. 21-0202, 43 WTD 43 (2024)

BEFORE THE ADMINISTRATIVE REVIEW AND HEARINGS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition for) D E T E R M I N A T I O N
Correction of Assessment of)
)
 No. 21-0202
)
 Registration No. . . .
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RCW 82.32.730(1); WAC 458-20-193 - Sourcing—[Leases of railcars. Each periodic lease payment represents a separate sale for retail sales tax and retailing B&O tax purposes.] For [retail sales tax] purposes, the first periodic payments the taxpayer received for the railcars delivered to the customers in that period [are sourced under RCW 82.32.730(1)(b) to the location where the customers received the railcars. Subsequent periodic payments are sourced under RCW 82.32.730(1)(c) to the business addresses of the taxpayer's customers.]

[For periods before July 1, 2017,] the sourcing of each periodic payment for B&O tax purposes depends on the location of the railcars that were covered by that particular periodic payment. For periods [beginning on or] after July 1, 2017, . . . the taxpayer must source [the periodic payments] for retailing B&O tax purposes [in the same manner as the sourcing of these payments for retail sales tax purposes] under . . . RCW 82.32.730(1).

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

Callahan, T.R.O. – An out-of-state limited liability company that leased railroad cars protests the retail sales tax and retailing business and occupation tax assessment on its income from leasing its railroad cars to private companies that used them to transport their own goods. The leasing company argues that its income is not subject to Washington taxes because its customers received the railroad cars outside of Washington. We grant in part and deny in part the petition.¹

ISSUE

Under RCW 82.32.730(1), and WAC 458-20-193 (Rule 193), whether each transaction under a periodic lease is treated as a retail sale and [if so], whether each periodic payment covered by the lease is sourced to where the customer received the railcars for that periodic payment.

¹ Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

FINDINGS OF FACT

. . . (Taxpayer) is an out-of-state limited liability company that leased railroad cars (Railcars) to . . . private companies to transport persons or property. Taxpayer registered with the Department on January 1, 2011, and closed its registration on December 31, 2019. This administrative review concerns Taxpayer's unreported income from leasing its Railcars to private companies (Customers) that hire third-party railroad companies to transport the Customers' own products.² Taxpayer claims that its Customers received the Railcars outside of Washington and thus the leasing income should be sourced to where the Customers received the Railcars under the sourcing [hierarchy] set forth in RCW 82.32.730, and the leasing income is not subject to Washington taxes.³

The Department's Audit Division examined Taxpayer's business activities and transactions reports for the period of January 1, 2011, through December 31, 2014 (Audit Period). Taxpayer has not reported any income to Washington during the Audit Period.

On September 23, 2020, Audit issued an audit report, Letter ID: . . . (Audit Report) for its findings, concluding that Taxpayer had business activities in Washington during the Audit Period. The findings are based on review of Taxpayer's federal income tax returns, Taxpayer's sales by state reports, the rail mileage reports prepared by a third-party Taxpayer hired to track the mileage of the Railcars, the leasing agreements between Taxpayer and the Customers, and the Customers' billing information.⁴

Taxpayer and its Customers entered into leasing agreements to lease the Railcars. Taxpayer represents that the leasing agreements outline the general lease terms, for example, lease duration, numbers of Railcars, and fee structure.⁵ The lease duration was typically for multiple years and was often extended by the [parties].⁶ The fee structure may vary but was generally a fixed rental fee charged per Railcar on a monthly basis.

Taxpayer signifies that due to the nature of the industry, the leasing agreement did not always stipulate a specific delivery location of the Railcars.⁷ The leasing agreement provided how Taxpayer and the Customer should record and share information on the mileage of the Railcars. Under the leasing agreement, the Customer agreed to keep records pertaining to the leased Railcars' movements, routing, and all information the Customer received from the railroad company that the Customer hired to move its property. Customer also had to furnish those records and information to Taxpayer.

² Petition response, p.4.

³ Taxpayer states in its petition that "for purpose of the arguments . . . , we will proceed [as] though [Taxpayer] has sufficient nexus with Washington under the Due Process Clause of the U.S. Constitution, but we respectfully reserve the right to dispute this matter at a later time." Petition, p.12.

⁴ See petition, p. 4.

⁵ Petition, p.3.

⁶ *Id.*

⁷ Taxpayer explains that Railcar delivery can be a gradual process that is dependent on availability of the Railcars and often takes months to complete as a result. In addition, Customers' needs can often change during the delivery process, and a delivery location is generally not negotiated until the Railcars are available and the Customers' needs are confirmed. Also, the Customers may not know the specific location in which the Railcars are going to be used.

Taxpayer had the contractual obligation to collect [information on] the mileage [traveled and location of] the Railcars and remit such [information] to the Customer. In order for Taxpayer to fulfill this contractual obligation, Taxpayer hired a third party to track the mileage of the Railcars. The third party tracked the individual Railcar on a mileage basis referred to as . . . (Mileage Report). The Mileage Report illustrated the Railcars' perpetual travel within the United States.⁸ Taxpayer provided a copy of its 2014 Mileage Report as a sample to Audit, which shows the mileages of the Railcars used in Washington in 2014.⁹

Taxpayer used the Mileage Reports to create apportionment reports apportioning its total leasing income earned for a year to various states. Taxpayer used the pro-rata percentage of the mileages of the Railcars in each state to report its federal income taxes.

The 2014 Mileage Report shows the mileages of Railcars used in Washington and the pro-rata percentage Taxpayer allocated to Washington for its federal income tax reporting as follows:

State	Railcar . . .	Railcar . . .	None ¹⁰
WA
Total mileages among 50 states
	0.58% (. . . / . . .)	3.17% (. . . / . . .)	2.3% (. . . / . . .)

Taxpayer did not report any income from its Railcars leasing or renting to Washington during the Audit Period. Audit found the Railcars were located in Washington for a portion of time each year during the Audit Period. Audit determined Taxpayer's Railcars located in Washington were sufficient to create substantial nexus with the state. Audit and Taxpayer agreed to use the 2014 Mileage Report to project Taxpayer's business activities in Washington . . . [during] the Audit Period.

Audit assessed retailing business and occupation (B&O) tax and retail sales tax on Taxpayer's Railcars leasing income to the Customers.^[1] On September 28, 2020, the Department issued a balance due notice, Letter ID: . . . (Assessment) for \$. . . , which consisted of interstate transportation equipment retailing B&O tax of \$. . . , retailing B&O tax of \$. . . , retail sales tax of \$. . . , a five percent assessment penalty of \$. . . , a 29 percent late payment penalty of \$. . . , and interest of Taxpayer did not pay the Assessment and petitioned the Department's Administrative Review and Hearings Division for an administrative review of the Assessment.¹¹

⁸ Petition, Exhibit A.

⁹ *Id.*

¹⁰ Every Railcar . . . contains . . . a tracking number. Taxpayer uses the [tracking number] to track the Railcar as it travels through the rail system when used by the Customer. There is a considerable amount of [tracking numbers] not tracked by Taxpayer. These marks are coded as "NONE" and are tracked directly by the various lessees, and their information is not available to Taxpayer. Taxpayer explains the number of Customers who track their own assets is voluminous and Taxpayer currently does not request data from the Customers individually. In lieu of . . . tracking for those Railcars that do not have [tracking numbers tracked by Taxpayer], Taxpayer utilizes national rail mileage statistics as represented by the "Association of American Railroads".

¹¹ Audit found a contract that Taxpayer entered with its only common carrier customer, . . . , and determined that Taxpayer's income from leasing and renting Railcars to its interstate common carrier customer is exempt from retailing B&O tax and retail sales tax but the income is subject to the interstate transportation equipment retailing

Taxpayer states and Audit agrees that the Railcars are transportation equipment for purposes of the sourcing rule.¹² Taxpayer asserts that its Customers received the Railcars outside of Washington and thus the leasing income should be sourced to where the Customers received them under the hierarchy sourcing rule set forth in RCW 82.32.730, and accordingly, the leasing income is not subject to Washington taxes.¹³

In support of its argument, Taxpayer provided all of its leasing agreements that it entered into with its Customers in 2014. Each of the Leasing Agreements contained an “Acceptance” clause, which provided that the Customer “inspect each [Railcar] promptly when delivered to [Customer] at a delivery location.” The Customer would pay Taxpayer a fixed rent per Railcar per month.

Taxpayer argues that under the hierarchy of RCW 82.32.730, if the Customers did not receive the Railcars at its business location, the sales are sourced to where the Customers received the Railcars under RCW 82.32.730(1)(b). Taxpayer provided the following sample leasing agreement to support this argument:

- Leasing Agreement No. . . . (Customer A Agreement) - Taxpayer entered into the Customer A Agreement with . . . (Customer A) on November 13, 2012, to lease 200 Railcars to Customer A.¹⁴ The Customer A Agreement provided that Taxpayer would start to deliver 100 Railcars in November 2013 and the remaining 100 Railcars in December 2013.¹⁵ The Customer A Agreement stated that the Railcars’ delivery location was . . . Canada.

In the following sample Leasing Agreements, Taxpayer argues that according to the delivery reports, none of the Railcars were delivered in Washington. Taxpayer asserts that since the delivery locations were not specified in the Leasing Agreements, the sales of the Leasing Agreements should be sourced to the Customers’ addresses maintained in Taxpayer’s business records under RCW 82.32.730(1)(c):

- Leasing Agreement No. . . . (Customer B Agreement) - Taxpayer entered into the Customer B Agreement with . . . (Customer B), on December 17, 2012, to lease 100 Railcars to Customer B. The Customer B Agreement provided that the delivery location was “a location designated by [Customer B].” The delivery report for the period of May 1, 2013, through June 12, 2013, shows that the Railcars were delivered to multiple locations in Canada. Customer B’s billing address is in Canada according to the file that Taxpayer maintained.
- Leasing Agreement No. . . . (Customer C Agreement) - Taxpayer entered into Customer C Agreement with . . . (Customer C), on December 15, 2011, to lease 200 Railcars to Customer C. The delivery location was “to [Customer C] designated location.” The

B&O tax. Audit assessed interstate transportation equipment retailing B&O tax on such income. The interstate transportation equipment retailing B&O tax is not in dispute. *See* audit workpaper A. *See also* petition p.11.

¹² Petition, p.6.

¹³ Taxpayer also asks the Department to waive the assessed penalties because the penalties are associated with the incorrect Assessment. Taxpayer has not provided an argument under RCW 82.32.105 for a penalty waiver.

¹⁴ Petition, p. 34.

¹⁵ Petition, p. 41.

delivery report for the period of March 6, 2012, through May 3, 2012, shows that the Railcars were delivered to locations in . . . Iowa and . . . Arkansas. Customer C's billing address is in Texas according to the file that Taxpayer maintained.

- Leasing Agreement No. . . . (Customer D Agreement) – Taxpayer entered into Customer D Agreement with . . . (Customer D), on March 5, 2013, to lease 300 Railcars to Customer D. The Customer D Agreement provided that “the delivery location was not applicable. [Railcars] are already in the possession, use and service of [Customer D].” The delivery report shows that the Railcars were delivered to locations in . . . Minnesota, . . . Texas, or . . . North Dakota. Customer D’s billing address is in Texas according to the file Taxpayer maintained.

Audit states that RCW 82.32.730(1)(b) is the applicable statute.¹⁶ However, Audit determines that only the sale from the first periodic payment is sourced to where the Customer received the Railcars because[,] as Taxpayer concedes, each periodic payment is an individual transaction and the delivery location of each payment needs to be addressed separately.¹⁷ Audit states Taxpayer required its Customers to provide the locations of the Railcars for apportionment of its income throughout the states for federal income tax purposes. Audit concludes that [it can use these] allocations [to determine each Railcar’s primary location, which Audit considers] the receipt location . . . for each of the periodic payments.

ANALYSIS

Retail sales tax:

Retail sales tax is imposed on each retail sale of tangible personal property in this state. RCW 82.08.020(1). It is not disputed that Taxpayer’s sales at issue are retail sales. “Sale” means “any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a ‘sale at retail’ or ‘retail sale’ under RCW 82.04.050.” RCW 82.04.040(1). The definition of “sale” in RCW 82.04.040(1) includes rentals and leases, as defined in RCW 82.04.040(3).

Retail sales tax is imposed on each retail sale and is to be paid by the buyer to the seller. RCW 82.08.050(1). The seller is required to collect the retail sales tax[,] and the tax is deemed to be held in trust by the seller until paid to the Department. RCW 82.08.050(2). If the seller fails to collect the tax, “whether such failure is the result of the seller’s own acts or the result of acts or conditions beyond the seller’s control, the seller is, nevertheless, personally liable to the state for the amount of the tax.” RCW 82.08.050(3). The Department’s regulation regarding the interstate sales of tangible personal property, Rule 193[, Part I], provides that a person that makes retail sales of tangible personal property and has nexus with Washington is responsible for collecting and remitting retail sales tax on sales sourced to Washington.

¹⁶ Petition response, p.5.

¹⁷ Petition response, p.5. See petition, p.8.

Retailing B&O tax:

Washington imposes B&O tax on every person “that has a substantial nexus” with Washington for the act or privilege of engaging in business activities in Washington. RCW 82.04.220. The tax is measured by applying particular rates against the value of products, gross proceeds of sales, or gross income of the business as the case may be. RCW 82.04.220. The tax rate or rates applicable to a particular taxpayer depend on the type of activity or activities in which the taxpayer engages. Persons making retail sales are subject to retailing B&O tax on their gross proceeds of sales. RCW 82.04.250(1).

Renting tangible personal property to a consumer is a retail sale, subject to retailing B&O tax on the gross proceeds of sales, and subject to retail sales tax on the selling price. RCW 82.04.050(4)(a), RCW 82.08.020, RCW 82.04.250.

It is not in dispute that Taxpayer is the seller of the Railcars to its Customers. Taxpayer does not dispute that it has nexus with Washington. Taxpayer is personally liable for the retail sales tax on its Washington sourced sales and retailing B&O tax on its gross proceeds of sales. RCW 82.08.050(2); RCW 82.04.250(1); Rule 193(1). At issue is whether Taxpayer is required to source its gross receipts from leasing its Railcars to the Customers to Washington.

Retail Sales Tax Sourcing Under RCW 82.32.730:

It is undisputed that the Railcars are transportation equipment as defined in RCW 82.32.730(9)(g).¹⁸ RCW 82.32.730(4) states that “the retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with *subsection (1) of this section.*” (Emphasis added.) Accordingly, the sourcing [hierarchy] under RCW 82.32.730(1) applies here.¹⁹

RCW 82.32.730(1) provides some general rules for “sourcing” sales. First, according to RCW 82.32.730(1)(a), when tangible personal property “is received by the purchaser at a business *location of the seller*, the sale is sourced to that business location.” (Emphasis added). See Rule 193(203)(a). Second, when tangible personal property “is not received by the purchaser at a

¹⁸ RCW 82.32.730(9)(g) defines transportation equipment as:

- (i) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce;
- (ii) Trucks and truck tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that are:
 - (A) Registered through the international registration plan; and
 - (B) Operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;
- (iii) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or
- (iv) Containers designed for use on and component parts attached or secured on the items described in (g)(i) through (iii) of this subsection.

¹⁹ The retail sales tax exemption for leases of transportation equipment under RCW 82.08.0262 and RCW 82.08.0263 is not applicable here because the Customers leased the Railcars to transport their own tangible personal property. The exemption under RCW 82.08.0263 only applies to transportation equipment that is used to transport property or persons of others for hire.

business location of the seller, the sale is sourced to the location where *receipt by the purchaser . . . occurs.*" (Emphasis added). RCW 82.32.730(1)(b); *see* Rule 193(203)(b). Third, when [RCW 82.32.730(1)(a) and (b) do not apply], the sale is sourced to "an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business . . ." RCW 82.32.730(1)(c); *see* Rule 193(203)(c).

RCW 82.32.730(9)(f) defines "receive" or "receipt" as "taking possession of tangible personal property." Rule 193(202)(a) explains those terms further as meaning "the purchaser first either taking physical possession of, or having dominion and control over, tangible personal property."

Here, both Taxpayer and Audit agree that RCW 82.32.730(1)(a) is inapplicable because the Customers did not receive the Railcars at Taxpayer's location. Applying the next section in the sourcing [hierarchy], i.e. RCW 82.32.730(1)(b), Audit . . . determines that the location where the Customer [originally] received the Railcars . . . applies to the first periodic payment. Audit [also] concludes that the locations of the Railcars throughout the lease term . . . should be considered the receipt location for each of the Railcars for each of the periodic payments. The question before us is whether each transaction under a lease is treated as a retail sale for purposes of the retail sales tax [and retailing B&O tax], and [if so, whether] each periodic payment is sourced to the location where the Customers received [(or were in possession of)] the Railcars for that periodic payment.

Under Washington law a lease "is a contract for a series of transactions . . . and each transaction is treated as a retail sale for purposes of the retail sales tax." *Puget Sound National Bank v. Dep't of Revenue*, 123 Wn.2d 284, 291, 868 P.2d 127 (1994) (citing *Gandy v. State*, 57 Wn.2d 690, 695, 359 P.2d 302 (1961)). Similarly, the Department has concluded that each monthly lease payment represents a separate taxable transaction for tax purposes." Det. No. 01-003, 20 WTD 406 (2001) (citing Det. No. 87-305, 4 WTD 127 (1987); Det. No. 88-258, 6 WTD 141 (1988)). Tax is due on each lease payment unless the sale for the payment period is exempt from taxation. *Id.* Thus, each periodic payment is a separate sale. *Id.*

RCW 82.32.730(1)(b) states that when tangible personal property "is not received by the purchaser at a business location of the seller, the *sale* is sourced to the location where *receipt by the purchaser . . . occurs.*" (Emphasis added). Therefore, for purposes of the sourcing rule under RCW 82.32.730(1)(b), the receipt locations of the Railcars specified in the leasing agreements only apply to the first periodic payments Taxpayer received for the Railcars delivered to Customers in that period.²⁰ The sample leasing agreements demonstrate that the Customers received the Railcars outside of Washington. Accordingly, the first lease payments received from the Customers are sourced to [locations] outside of Washington and not subject to Washington tax. RCW 82.32.730(1)(b).

²⁰ The deliveries of the Railcars may be spread out over time. For instance, the Customer A Agreement provided that Taxpayer would start to deliver 100 Railcars in November 2013 and the remaining 100 Railcars in December 2013. Since deliveries of the Railcars for Customer A were spread out over time, receipts of Customer A's payments for the Railcars in November 2013 and December 2013 are sourced under RCW 82.32.730(1)(b). The Customer A Agreement reveals that the receipts occurred in Canada. For Customer D where there was no delivery with the first lease payment as specified in the Customer D Agreement, the sourcing [rule] under RCW 82.32.730(1)(c) applies.

With respect to the periodic payments subsequent to the first payment, the information before us is not sufficient to determine the Railcar's receipt location for each periodic payment for each Customer. The Customers moved the Railcars along the [stream of] commerce during the leasing periods, and there are no receipts for the Railcars. Therefore, RCW 82.32.730(1)(b) is not applicable.

If RCW 82.32.730(1)(a) and (b) do not apply, we proceed to subsection (1)(c), which states the sale is "sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith." The sales for the periodic payments subsequent to the first payment are sourced to the business addresses of the Customers. RCW 82.32.730(1)(c). The records presented indicate that the Customers' business addresses are outside of Washington. Thus, the sales of the periodic payments subsequent to the first payment are not subject to Washington retail sales tax.

Retailing B&O tax sourcing [for periods before July 1, 2017]:

Regarding Taxpayer's retailing B&O tax liability for its Railcar leasing income [before July 1, 2017], the retailing B&O tax is imposed on the gross proceeds of Taxpayer's sales. RCW 82.04.250(1). As we concluded above that each periodic payment is considered a separate sale under case law and the Department's precedents, likewise, each periodic payment is considered as a separate sale for retailing B&O tax purposes. Therefore, the sourcing for each periodic payment for B&O tax purposes depends on the location of the Railcars that were covered by that particular periodic payment.

Our conclusion is supported by Excise Tax Advisory 3185.2014 (ETA 3185), issued by the Department on January 16, 2014, under the authority of RCW 34.05.230. [ETA 3185 is an] interpretive statement that enunciates the Department's position with respect [to] the B&O tax and retail sales tax obligations of lessors leasing tangible personal property to consumers. In relevant part, ETA 3185 explains the periodic lease payment sourcing for transportation equipment, i.e., the Railcars, here:

For B&O tax purposes, recurring periodic lease payments are attributed as follows:

- The first payment is attributed to the location where the lessee takes possession of the transportation equipment. This is often a delivery location.
- Periodic payments made subsequent to the first payment are attributed to the primary property location for each period covered by the payment.

According to ETA 3185, Taxpayer's first payment is sourced to where the Customers first took possession of the Railcars. The evidence presented supports that the receipts occurred outside of Washington. Therefore, the first payments are not subject to Washington's retailing B&O tax.²¹ The periodic payments subsequent to the first payment are sourced to the Railcars' primary locations for each period covered by each periodic payment.

²¹ See footnote 21.

The definition of “primary location” for purposes of the sourcing rule is defined under RCW 82.32.730(3)(a) as[:]

For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. *The primary property location is as indicated by an 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.* This location is not altered by intermittent use at different locations.

(Emphasis added.) Although RCW 82.32.730(3)(a) is not the applicable statute here, the rationale of “primary location” is analogous. Taxpayer concedes that the Customers are contractually obligated to keep records pertaining to the leased Railcars’ movements, routing and all information the Customer received from the railroad company that the Customer hired to move its property. Thus, the primary location of the Railcars is available to Taxpayer from the information provided by the Customers. *See* RCW 82.32.730(3)(a).

We do not have sufficient records to determine whether each Railcar was used in any one state more than any other state. Therefore, using the most mileage of a Railcar that is used in a particular state seems a reasonable method to determine the primary location of the Railcar.

If the primary location of a Railcar for a periodic payment was located outside of Washington, such periodic payment is not subject to Washington retailing B&O tax. RCW 82.04.250(1). We remand the case back to Audit to obtain information from Taxpayer on the primary locations of the Railcars for each periodic payment during the Audit Period.

...

*Retailing B&O tax sourcing for periods starting July 1, 2017:*²²

The sourcing rule for retailing B&O [tax] changed effective July 1, 2017. [For retail sales occurring on or after July 1, 2017, the gross proceeds of sales subject to retailing B&O tax are sourced in exactly the same manner as those sales are sourced under RCW 82.32.730 for retail sales tax purposes.]^[22]

For periods [beginning on or] after July 1, 2017, the primary location sourcing rule under ETA 3185 for Taxpayer’s retailing B&O tax is no longer applicable. Taxpayer must source its sales for retailing B&O tax purposes under the hierarchy set forth in RCW 82.32.730 as discussed above. That is, first, the sale is sourced to the location where the property is “received by the purchaser at a business location of the seller.” RCW 82.32.730(1)(a). Second, when RCW 82.32.730(1)(a) is

[²² This change in sourcing for retailing B&O tax results from an amendment to RCW 82.04.067, which is the statute addressing when a taxpayer has a substantial nexus with this state for purposes of the taxes and fees the Department is responsible for collecting. As a result of the 2017 amendment to this statute, retail sales are sourced according to RCW 82.32.730 for determining whether a taxpayer has nexus with this state. The Department applies these nexus sourcing provisions by analogy in the context of determining whether the gross proceeds from a retail sale made by a seller with substantial nexus with Washington are sourced to Washington and subject to B&O tax. Before the 2017 amendment to RCW 82.04.067, only wholesale sales were sourced according to the retail sales tax sourcing provisions of RCW 82.32.730 for nexus purposes.]

not applicable the sale is sourced to “the location where receipt by the purchaser . . . occurs.” RCW 82.32.730(1)(b). Third, if RCW 82.32.730(1)(b) is inapplicable, the sale is sourced to “an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business. . . .” RCW 82.32.730(1)(c).

DECISION AND DISPOSITION

We deny in part and grant in part the petition.

Dated this 9th day of December 2021.