



Interim guidance statement regarding changes made by ESSB 5814 for live presentations

September 12, 2025

Purpose

Starting October 1, 2025, Engrossed Substitute Senate Bill 5814, Laws of 2025, Chapter 422 (ESSB 5814) makes live presentations a “retail sale” subject to Washington’s retailing business and occupation (B&O) tax and retail sales tax when sold to a consumer. The purpose of this interim guidance statement is to provide guidance that taxpayers can rely on while the Department of Revenue (department) creates permanent guidance.

This interim guidance is divided into the following sections:

- Background and relevant law
- What is a live presentation?
- How do I determine where the sale of live presentations takes place?
- Can live presentations be resold?
- Does the multiple points of use (MPU) exemption apply to live presentations?
- Do nonprofits have to pay retail sales tax on live presentations?
- Do state and local governments have to pay retail sales tax on live presentations?
- What is the tax treatment when live presentations are sold between members of an affiliated group?
- How do I determine my retailing B&O tax amount and the correct retail sales tax rate?
- Taxpayer instructions

Examples found in this interim guidance statement identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review

of all facts and circumstances.

Background and relevant law

Under ESSB 5814, the sale of live presentations is a retail sale.[1] This means live presentations will be subject to retailing B&O tax and retail sales tax if sold to a consumer.[2]

ESSB 5814 defines “Live presentations” including, but not limited to, lectures, seminars, workshops, or courses where participants attend either in person or via internet or telecommunications equipment that allows audience members and the presenter or instructor to give, receive, and discuss information with each other in real time.

What is a live presentation?

To be a “live presentation,” it is sufficient that the presenter or instructor and/or audience are allowed to give, receive, and discuss information with one another in real time, whether this occurs in-person or electronically. A taxable live presentation requires a fee, charge, or any other exchange of consideration between any parties involved.

The following considerations can be used to help determine if you are providing a live presentation:

1. The purpose of the activity is to inform, explain, persuade, or educate on a particular subject;
2. The structure of the activity is in the form of a seminar, lecture, workshop, course, or any similar event;
3. The activity allows for interaction with or participation from the audience in real time, although interaction or participation is not required; and
4. The activity must allow for more than one attendee.

NOTE: The determination of whether a service meets the definition of a “live presentation” is based on the specific facts and circumstances of a particular transaction. While the considerations above are generally features of a live presentation, the specific tax results of a particular transaction may vary.

Live presentations include, but are not limited to, the following types of activities:

- Courses, classes, seminars, workshops, or other programs for personal or professional enrichment such as art, music, choir, pottery, business

- Continuing professional education including: continuing legal education, continuing medical education, continuing education for trades, continuing education for teachers, etc.
- Driving education courses or lessons.
- In-person and online instructional classes, lessons, workshops, seminars, or other programs that are provided in real time.

Note: With respect to any of the activities identified directly above, the activities would not be a live presentation if the activity is provided by and as part of a learning program by a public or private elementary or secondary school, or as part of a learning program encompassed within the accreditation of a higher education institution.]

Live presentations do not include:

- Classes provided by preschools.
- Classes and continuing education courses provided by elementary and secondary schools and by institutions of higher education as part of their accreditation. See ESSB 5814 concerning live presentations for schools and institutions of higher education for additional guidance.
- Performances such as concerts, plays, musicals, comedy shows, and opera.
- Movies.
- Sports events.
- Fundraising events.
- One-on-one instructional activities such as tutoring, consulting, or music lessons.
- Professional services where the presentation is merely a part of delivering a broader service to the client (see Example 10 below).
- Pre-recorded presentations, where the purchasers can watch the recording of a live presentation at a later time. Pre-recorded content delivered electronically is generally defined as a digital good and subject to retailing B&O and retail sales tax if sold to a consumer (see Example 9 below). For more information, see our Tax Topic on digital products.
- Athletic and fitness activities that are separately classified under the definition of an “athletic fitness facility” per ESSB 5814 §101(3)(m)[3] as these activities maintain their specified tax classification. For more information, see our Tax Topic on Athletic and fitness facilities.
- Recreational activities that are separately classified under ESSB 5814 §101(15) as these activities maintain their specified tax classification. For

more information, see Recreational services at a glance.

- “Opportunity to dance” as these activities maintain their specified tax classification. For more information, see House Bill 1550, Chapter 169, Laws of 2015, and our Tax Topic on Opportunity to dance.

Example 1 – Sale of a live presentation to a preschool

Facts: Sunshine Preschool hires third-party vendors, such as wildlife sanctuaries and conservation groups, to share their knowledge of reptiles and animals and to engage the preschoolers in hands-on learning experiences. On November 1, 2025, FeathersFun charges Sunshine Preschool \$300 for a presentation about birds that will be provided in-person on November 17, 2025. The presentation includes sharing knowledge of three types of birds and provides opportunities for the preschoolers to engage with the presenter and the birds.

Result: The amount the Sunshine Preschool charges for tuition for classes is not payment for a live presentation. However, FeathersFun is making a retail sale of a live presentation to Sunshine Preschool subject to retailing B&O tax and must collect and remit retail sales tax. FeathersFun’s activity meets the considerations to be a live presentation because: (1) the purpose is to inform, explain, persuade, or educate on a particular subject (in this case to educate the preschoolers on birds); (2) the activity is structured as a seminar, lecture, workshop, course, or similar-type event; (3) the audience (preschoolers), while not required, is allowed to interact (give, receive, and discuss information) with the instructor in real-time; and, (4) the activity allows for more than one attendee as the presentation is for a classroom.

Example 2 – Sales of seminars by a nonprofit organization

Facts: TaxTalk is a Washington nonprofit organization that provides low-cost, in-person only tax seminars. The tax seminars hosted by TaxTalk comprise a panel of state and local sales tax experts from various legal and accounting firms in the United States. Attendees can interact with the speakers during the Questions and Answers session of the seminars. For its November 2025 seminar, TaxTalk charges \$50 per attendee.

Result: TaxTalk is making a retail sale of a live presentation subject to retailing B&O and must collect and remit retail sales tax. TaxTalk’s activity meets the considerations to be a live presentation because: (1) the purpose is to inform, explain, persuade, or educate on a particular subject (in this case,

to educate or inform attendees on tax topics); (2) the activity is structured as a seminar, lecture, workshop, course, or similar-type event; (3) the audience (attendees), while not required, is allowed to interact (give, receive, and discuss) with the speakers in real-time; and, (4) the activity allows for more than one attendee.

Example 3 – Sale of CPR/AED/First-Aid Training

Facts: The Act-Quick-Save-Lives (AQLS) Foundation is a Washington company focused on providing education on life-saving techniques and granting certifications to individuals and health care professionals. On October 1, 2025 AQLS Foundation charges \$75 per person (for a group of up to 10 attendees) for an online instructor-led Standard CPR/AED/First-Aid Certification course, which includes 4 hours of instructor-led training and certification after completion of the training.

Result: The AQLS Foundation is making a retail sale of a live presentation subject to retailing B&O and must collect and remit retail sales tax. The AQLS Foundation's activity meets the considerations to be a live presentation because: (1) the purpose is to inform, explain, persuade, or educate on a particular subject (in this case, to educate participants on CPR/AED/First-Aid techniques and then certify their training); (2) the activity is structured as a seminar, lecture, workshop, course, or similar-type event; (3) the audience (course participants), while not required, is allowed to interact (give, receive, and discuss information) with the instructor in real time; and (4) the activity allows for more than one attendee.

Example 4 - One-on-one training is not a live presentation

Facts: Assume the same facts as Example 3, except the AQLS Foundation also provides one-on-one CPR/AED/First-Aid Certification course for \$350, which includes 2 hours of online instructor-led training and certification upon completion.

Result: The one-on-one instruction provided by AQLS Foundation is not a retail sale of a live presentation because a live presentation requires the activity to allow no more than one attendee.

Example 5 – Sale of driver’s education course provided by a private driving school

Facts: SafeDriving is a privately-owned driving school located in Tukwila, Washington. On October 1, 2025, SafeDriving offers a basic driver’s education course for \$700. The course includes 30 hours of classroom training with the instructor and up to 5 other students, 6 hours of individual drive simulation in the classroom, 6 hours of behind-the-wheel driving lessons scheduled outside of classroom time (which may include other students in the car as observers) and 6 hours of observation of other student drivers behind the wheel.

Result: SafeDriving is making a retail sale of a live presentation subject to retailing B&O and must collect and remit retail sales tax. SafeDriving’s activity meets the considerations to be a live presentation because: (1) the purpose is to inform, explain, persuade, or educate on a particular subject (in this case, to educate the students on driving techniques and safety); (2) the activity is structured as a seminar, lecture, workshop, course, or similar-type event; (3) the audience (students), while not required, is allowed to interact (give, receive, and discuss information) with the instructor in real time; and (4) the activity allows for more than one attendee.

NOTE: Driver’s education courses and lessons provided by a private or public secondary school are not live presentations. Private one-on-one driving lessons are not live presentations.

Example 6 – A sale of an in-person clay camp workshop by a ceramicist

Facts: Preston Clay Studio is hosting an in-person clay camp workshop on the weekend of October 11 and 12, 2025, from 1:00 p.m. to 3:00 p.m. each day. Individuals can register for the clay camp workshop for a fee of \$100 per person. The two-day workshop includes two hours of clay throwing instruction and hands-on demonstration the first day, and then two hours of kiln firing and glazing techniques on the second day.

Result: Preston Clay Studio is making a retail sale of a live presentation subject to retailing B&O and must collect and remit retail sales tax. Preston Clay Studio’s activity meets the considerations to be a live presentation because: (1) the purpose is to inform, explain, persuade, or educate on a particular subject (in this case, to educate and inform participants on ceramics techniques and practices); (2) the activity is structured as a seminar, lecture, workshop, course, or similar-type event; (3) the audience (registrants)

of the workshop, while not required, is allowed to engage (give, receive, and discuss) with the instructor in real time; and (4) the activity allows for more than one attendee.

Example 7 – Sale of a live webinar by an individual seller

Facts: Rich Richer, a real estate mogul, is hosting a two-day live webinar on real estate investing, “Get Rich with Richer,” on December 3, 2025, and December 4, 2025. During the live webinar, Rich Richer will share his successful journey in real estate investments and teach novice real estate investors how to invest in real estate with minimal start-up costs using humor. Participants of the webinar will have an opportunity to engage with Rich Richer in real-time during the live session. Rich Richer charges \$1,000 per registration.

Result: Rich Richer is making a retail sale of a live presentation subject to retailing B&O tax and retail sales Tax. Rich Richer’s activity is a live presentation because: (1) the purpose is to inform, explain, persuade, or educate on a particular subject (in this case, to educate registrants on real estate investment and persuade registrants to invest in real property); (2) the activity is structured as a seminar, lecture, workshop, course, or similar-type event; (3) the audience (registrants), while not required, is allowed to interact (give, receive, and discuss) with Rich Richer; and (4) the activity allows for more than one attendee.

Example 8 – Sale of a live webinar by an individual seller, where certain features are disabled during the live webinar.

Facts: Assume the same facts as Example 7, except Rich Richer disables certain features on the platform used to deliver the webinar in real time (e.g., raise hand feature for questions, chat function, etc.) that are normally available that would allow for participants to interact with the presenters during the live sessions.

Result: Rich Richer is making a retail sale of a live presentation subject to retailing B&O tax and retail sales tax. Rich Richer’s activity is a live presentation because: (1) the purpose is to inform, explain, persuade, or educate on a particular subject (in this case, to educate registrants on real estate investment and persuade registrants to invest in real property); (2) the activity is structured as a seminar, lecture, workshop, course, or similar-type event; (3) it is not required for the audience (registrants) to interact (give, receive, and discuss) with Rich Richer, so disabling the interactivity functions

on the platform does not impact taxability; and (4) the activity allows for more than one attendee. While certain interactive features are disabled, information can be given and received.

Example 9 – Sales of a recorded webinar are not live presentations

Facts: Due to the success of his live webinar “Get Rich with Richer,” Rich Richer decides to create another webinar series “Get Even Richer with Richer.” However, this webinar series will instead be recorded and available for purchase through Rich Richer’s website. The recorded webinar series costs \$500.

Result: Rich Richer is not making a retail sale of a live presentation because the webinar series “Get Even Richer with Richer” is not being provided in real-time (i.e., it is not “live”). Rather, Rich Richer is making a retail sale of a prerecorded live presentation, which is generally classified as a digital good subject to retailing B&O tax and requires the collection and remittance of retail sales tax.[4]

Example 10 – Consulting services are not live presentations

Facts: ABC company hires Megan, an independent contractor specializing in professional efficiency and accountability, to consult on ABC’s new manufacturing division and develop a plan for ABC to maximize its manufacturing process. As a part of Megan’s consulting services, Megan is occasionally required to present her findings and proposed plans for efficiency in real time at ABC’s executive management team bi-monthly meetings.

Result: Megan is not making a retail sale of live presentations. This is because the presentations Megan provides to ABC’s executive management are a part of her broader consulting services to ABC.

Example 11 – Classes offered free of charge are not live presentations

Facts: During November and December, Hall County offers several in-person ornament decorating and holiday meal cooking lessons to its community members. Each class allows up to 30 attendees. Attendees are responsible for providing their own materials and supplies for the lessons. The lessons are taught by volunteers within the community, and are offered free of charge to attendees.

Result: Hall County is not making a retail sale of live presentations because there is no fee or charge for attendees to participate in the ornament decorating and holiday meal cooking lessons taught by Hall County volunteers.

NOTE: If there is a fee or other charge for community members to attend community classes, then the classes are live presentations that are subject to retailing B&O tax and retail sales tax, even if community volunteers teach the classes.

Example 12: Employee presentations in the ordinary course of business are not live presentations.

Facts: Jim works for DelightCo, receiving an annual salary of \$100,000. As part of his duties, Jim provides presentations on a variety of topics.

Result: Jim is not making a retail sale of live presentation to DelightCo.

How do I determine where the sale of live presentations takes place?

The sale of live presentations is a retail sale. Retail sales must be sourced in accordance with RCW 82.32.730 for sales and use tax and retailing B&O tax purposes. The terms "**source**," "**sourced**," or "**sourcing**" refer to the location (as in a state, local taxing district, jurisdiction, or authority) where a sale is deemed to occur.

Live presentations are subject to tax based on the location where the services are received by the purchaser and other default sourcing rules as follows:[5]

1. The seller's place of business if the purchaser receives the retail service at the seller's place of business.
2. If not received at the seller's place of business, the location where the purchaser receives the retail service if known to the seller.
3. If the location where the purchaser receives the retail service is not known, the purchaser's address that is available in the seller's business records.
4. If no address is available in the seller's business records, the purchaser's address that is obtained at the time of sale (e.g., purchaser's payment instrument).
5. If no address is obtained at the time of sale, the address where the retail service was provided by the seller.

“Receipt,” in relevant part, generally means to make first use of the service.[6] While not binding on the department, the department may be guided by the Streamlined Sales and Use Tax Agreement (SSUTA) when determining the location of receipt.[7] The SSUTA does not directly address the sourcing of live presentations, but does address the sourcing of service generally, indicating “the location (or locations) where the purchaser (or the purchaser’s donee) can potentially first make use of the result of the service is the location (or locations) of the ‘receipt’ of the service.”[8] In determining the location of receipt for live presentations, the department provides the following guidance:

In determining the location of receipt for live presentations, the department provides the following guidance:

- **In-person live presentations:** Sales of live presentations where all purchasers and purchasers’ donees are physically present are received at the location where the live presentation takes place.[9]
- **Live presentations transferred electronically (remote live presentations):** Sales of live presentations where all purchasers (or the purchaser’s donee) attend remotely via the internet or telecommunications equipment in real time are sourced as follows:
 - If the attendee’s location is known: sales of remote live presentations are received at the physical location where each attendee (purchaser) is participating.
 - If the attendee’s location is not known: sales of remote live presentations are usually received at the attendee’s (purchaser’s) home or business address, or, if this information is not available in the seller’s records, received at the billing address the attendee (purchaser) or similar address provided at the time of sale/purchase (e.g., credit card billing address).[10]
- **Remote live presentation paid by one buyer with multiple attendees from multiple locations.** In the event a person pays for multiple attendees (i.e., purchasers’ donees) to attend the remote live presentations from multiple locations, the sale is sourced as follows:
 - If the attendee’s (purchaser’s donee) location of receipt is provided by the purchaser and known by the seller: the seller must use the provided location for the attendee as the place of receipt for the amount charged for that attendee.
 - If the attendee’s (purchaser’s donee) location of receipt is not provided by the purchaser, but is known to the seller or can be determined by the seller when the live presentation occurs: the

- seller must use the attendee's known or available location as the place of receipt for the amount charged for that attendee.
- If the attendee's (purchaser's donee) location is unknown or undetermined: the place of receipt is the purchaser's address from the seller's business records or, if that is unavailable, the purchaser's billing address or similar address obtained at the time of sale/purchase.
 - **Hybrid live presentations (in-person and remote live presentations):** Sales of live presentations in which purchasers and purchasers' donees (i.e., attendees) attend both in-person and remotely are received based on each attendee's attendance method.
 - For those who attend in-person: the sales of these live presentations are sourced to the location of the event for those purchasers and purchasers' donees.
 - For those who attend remotely: the sales of these live presentations are sourced to the physical location of each purchaser or purchaser's donee, if known, or to purchaser's address as described above.
 - **Documentation:** To ensure sales tax is sourced correctly, sellers must keep records of the number of purchasers and purchasers' donees that are attending in-person and the number of purchasers and purchasers' donees attending remotely, even when paid for by one purchaser for multiple attendees from multiple locations.

Example 13 – Exclusively in-person conference

Facts: TechGeeks LLC (TG LLC) is an innovative technology trade association based in Bellevue, Washington. Each year, TG LLC hosts a two-day in-person conference to provide its members and technology enthusiasts with opportunities to meet industry-leading experts, learn about the latest innovative technology, and engage with the experts and startup leaders while exploring the possibilities of investing in their companies. The first in-person TG LLC conference will be held in Bellevue, Washington in December 2025. The conference is open to the general public, and the charge for the TG LLC conference is a separate charge from the membership fees. Tech-Talk, a new startup company located in Olympia, Washington, will pay the registration fees for its 10 employees to attend the in-person conference in Bellevue, Washington. Tech-Talk's employees are located in 3 different states: 5 in Olympia, Washington, 3 in Boulder, Colorado, and 2 in Atlanta, Georgia. All 10 of Tech-Talk's employees will attend.

Result: TG LLC is making a retail sale of a live presentation subject to retailing B&O tax and retail sales tax. As conference participants must attend in-person, TG LLC must source the sale to the location where the conference takes place in Bellevue, Washington. TG LLC must pay B&O tax and must collect and remit retail sales tax based on the location of the in-person conference, Bellevue, Washington.

Example 14 – Exclusively online conference paid for by individual employee attendees (locations of receipt are unknown).

Facts: Assume the same facts as Example 13, except the TG LLC conference is virtual only. Tech-Talk's employees individually register for the TG LLC conference. When registering for the conference, Tech-Talk's employees provide their respective office locations (Olympia, WA, Boulder, Colorado, and Atlanta, Georgia) as their billing address at the time of registration. TG LLC does not know the location of actual receipt by individual attendees.

Result: TG LLC is making a retail sale of a live presentation subject to retailing B&O tax and retail sales tax. TG LLC does not know the location of receipt and the sales of remote live presentations are deemed received at billing addresses provided at the time of purchase. B. TG LLC must pay retailing B&O tax and collect retail sales tax from Tech-Talk's 5 Washington employees who will be attending TG LLC's virtual conference from their Olympia, Washington business location. TG LLC is not required to pay retailing B&O or collect Washington sales tax from the Tech-Talk employees with out-of-state billing addresses. TG LLC must report the gross amount under retailing B&O tax and retail sales tax, but is allowed to take a "Foreign and Interstate Sales" deduction for the amount of sales that is sourced outside of Washington.[11]

Example 15 – Exclusively online conference paid for by a company for its employees (locations of receipt are known)

Facts: Assume the same facts as Example 14, except employees are individually billed and Tech-Talk pays the charges for its 10 employees to attend. Tech-Talk uses its headquarters address located in Olympia, Washington as the payment billing address. At the time of registration, TG LLC requests the location of where each registrant will be attending. Tech-Talk provides that 5 employees will attend from their Olympia, WA office, 3 employees from their Boulder, Colorado office, and 2 employees from the Atlanta, Georgia office.

Result: TG LLC is making a retail sale of a live presentation subject to retailing B&O tax and retail sales tax. Based on information provided at time of registration, the sale of the live presentation for each of Tech-Talk's employees is received at the respective business location of receipt of each employee as provided to TG LLC at the time of registration. TG LLC must pay retailing B&O and collect retail sales tax from Tech-Talk on the 5 registrations in which Tech-Talk indicated that the employees will be attending from their respective business location in Olympia, Washington. TG LLC is not required to collect Washington sales tax from the Tech-Talk's employees who will be attending the virtual conference from their out-of-state business addresses. TG LLC must report the gross amount under retailing B&O tax and retail sales tax, but is allowed to take a "Foreign and Interstate Sales" deduction for the amount of sales sourced outside of Washington.[12]

Example 16 – Exclusively online conference paid for by a company for their employees (locations of receipt are unknown)

Facts: Assume the same facts as example 15, except that at the time of registration Tech-Talk takes advantage of a discounted rate allowed when registering 10 or more attendees for the conference. With the flat fee rate, Tech-Talk is not required to disclose the location where each of its employees will be participating. Tech-Talk is only required to provide its mailing and billing addresses at the time of registration. Tech-Talk's billing address is in Olympia, Washington.

Result: TG LLC is making a retail sale of a live presentation subject to retailing B&O tax and retail sales tax. When the place of receipt of each attendee is unknown, TG LLC may source the sale to the billing address as provided by the purchaser at the time of purchase. In this case, the sale would be sourced to Olympia, Washington as this is the billing address Tech-Talk provided at registration. As such, TG LLC must pay retailing B&O and collect and remit retail sales tax on the full amount received from Tech-Talk for the live presentation based on the sales tax rate for their location in Olympia, Washington.

Example 17: Exclusively online conference paid for by a company for their employees - bad faith address (locations of receipt are unknown)

Facts: Assume the same facts as Example 15, except that at the time of registration Tech-Talk provides only a mailing and billing addresses for an address in St. Paul, Minnesota from which no employees attend.

Result: The department may consider this address to be used in bad faith and assess Tech-Talk for deferred sales tax accordingly, including any applicable interest and penalties.

Can live presentations be resold?

Yes, in certain circumstances. Sellers of these services may use a reseller permit when subcontracting with a third-party service subcontractor in certain situations. However, providers must maintain documentation to substantiate that the services qualify for resale.

The seller of live presentation may provide a reseller permit to a third-party subcontractor to document that the seller is purchasing the third-party subcontractor's services for resale purposes when both of the following factors are met:

1. The seller of the live presentation is contractually responsible for providing the services to create the live presentation for a third-party buyer; and
2. The seller of the live presentations has no intervening use of the services provided by the third-party subcontractor. [13]

NOTE: Intervening use does not include any kind of editing, improving, or altering of the recording of a live presentation after the live presentation has taken place. A recording is not considered to be a live presentation because it does not take place in real time.

Businesses providing live presentations may also accept other approved exemption certificates from their customers or the standard data elements. See WAC 458-20-102. To be valid, these certificates must be properly completed and signed by the customer.

If a seller of live presentations provides a subcontractor with a reseller permit or other approved exemption certificate, the seller does not need to pay retail sales tax. However, the subcontractor would still need to report the sale

under the wholesaling B&O tax classification.

Example 18 – Resale of live presentations

Facts: FastTalk is a corporation that provides personal and professional development courses that constitute live presentations. FastTalk recruits communication and behavioral science experts located in Washington to present their newest research and findings at monthly conferences organized by FastTalk. FastTalk charges \$100 per attendee per course. FastTalk's contracts with independent experts expressly provide that FastTalk cannot use other than to include the presentations in the conferences, alter, or change in any material way the content delivered by the experts. In addition, the experts retain the copyright of the materials they present and are in full control of their presentations, although, presenters do not retain a copyright in any derivative live recording produced by FastTalk. FastTalk will provide the necessary equipment and digital tools for the experts to deliver and facilitate their courses to the attendees, which includes monitoring the questions received from the audience. FastTalk will pay each expert \$2,000 for their presentation. FastTalk retains all proceeds from ticket sales.

Result: FastTalk is making a retail sale of a live presentation subject to retailing B&O tax and retail sales tax. FastTalk must collect and remit retail sales tax and report retailing B&O for the amounts received from attendee ticket sales.

Under these conditions, the department will accept that the independent experts are providing live presentations to FastTalk, which FastTalk is purchasing for resale. As such, FastTalk must provide each expert with a copy of its reseller permit. The independent experts are making wholesale sales of live presentations and must report their fees under the wholesaling B&O tax classification.

Does the multiple points of use (MPU) exemption apply to live presentations?

RCW 82.08.0208(4) provides the multiple points of use (MPU) retail sales exemption for certain eligible products, including digital products such as digital automated services (DAS), used by the purchaser concurrently inside and outside of Washington. RCW 82.12.0208(7) works in conjunction with the MPU sales tax exemption to apply use tax proportionately to the use of these

products in Washington. This means that instead of paying retail sales tax at the time of purchase, buyers claiming the MPU exemption must allocate and report use tax directly to the department.

If a service that is defined as a retail sale under RCW 82.04.050 also meets the definition of a DAS, the department will treat these services as digital products that are eligible for all applicable retail sale and use tax exemptions, including the MPU exemption. A DAS is “any service transferred electronically that uses one or more software applications.” See WAC 458-20-15503(601). The question of whether a service meets the definition of a DAS generally depends on the facts and circumstances of that service. At the time of this IGS, the department has received no feedback concerning whether any live presentations may meet the definition of a DAS. Sellers and their customers will need to make this determination as to whether their service is a DAS.

In order to qualify for the MPU exemption, the DAS must also be concurrently available for use inside of Washington and outside of Washington. To be “concurrently available for use within and outside this state” means that employees or other agents of the taxpayer may use the digital automated services simultaneously at one or more locations within Washington and one or more locations outside of Washington.

If a service meets the statutory requirements described above, purchasers may generally use the MPU sales tax exemption and pay use tax on the amount apportioned to Washington under RCW 82.12.0208.

However, if the DAS is sold as part of a bundled transaction, then the MPU exemption and related apportionment is not available.[14] A bundled transaction is the sale of two or more distinct and identifiable products sold for one nonitemized price.[15] Pursuant to this interim guidance, the department will accept there is not a bundled transaction and the packaged products can each be taxed according to their appropriate classification if:

- The price of the DAS is separately identified by product on a binding sales invoice or other supporting sales-related documentation made available to the customer in paper or electronic form that may include, but is not limited to: an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, price list or the sale of any products in which the sales price varies; or

- The sale of any of the products that are negotiable based on the selection made by the purchaser of the products included in the transaction.

Do nonprofits have to pay retail sales tax on live presentations?

In Washington, nonprofit organizations are generally taxed like any other business. They must pay B&O tax and collect and remit sales tax on gross revenues generated from the regular business activities they conduct unless an exemption applies.[16] This means that nonprofit organizations must collect and remit retail sales tax when making retail sales of live presentations and must pay retail sales tax when purchasing live presentations.

Nonprofit organizations may be eligible for a B&O deduction for amounts received from a trade show, convention, or educational seminar if the requirements of RCW 82.08.4282(6) and WAC 458-20-256 are satisfied. Similarly, artistic and cultural organizations may be eligible for a B&O deduction per RCW 82.04.4327.

For more information, see our Nonprofit organizations industry guide.

Do state and local governments have to pay retail sales tax on live presentations?

In Washington, state and local governments are generally subject to retail sales tax on their purchases just like any other person.[17] Sellers must collect and remit retail sales tax on sales of live presentations for state and local governments.

What is the tax treatment when live presentations are sold between members of an affiliated group

The department continues to evaluate the application of the exclusion applicable to the sale of live presentations to affiliates and will update this interim guidance shortly.

How do I determine my retailing B&O tax amount and the correct retail sales tax?

Washington's B&O tax, including the retailing B&O tax, is calculated on the gross income from activities. This means that there are no deductions for labor, materials, taxes, or other costs of doing business. The B&O tax rate varies by classification, which you can find on the department's business & occupation tax classifications webpage. For more information regarding B&O tax generally, please see the department's business & occupation tax webpage.

Retail sales tax collection is based on the location where the customer receives the service (destination-based sales tax). The department has dedicated tools that help businesses track and determine the location code and sales tax rate to use. This includes a sales tax rate lookup URL Interface that provides direct access to the department's address-based rate lookup technology platform. Please see the department's Sales & use tax rates and Sales and use tax tools webpages for more information.

Taxpayer instruction

The department will continue to review this issue for the purpose of developing and adopting final guidance. This interim statement will remain in effect until the Department issues final guidance, or the interim statement is cancelled.

Please see our Services newly subject to sales tax webpage for updates, guidance, and opportunities to engage with the department.

If you have questions about this guidance, please contact the department at rulings@dor.wa.gov.

[1] RCW 82.04.050

[2] RCW 82.04.050, RCW 82.04.250, and RCW 82.08.020.

[3] "Athletic or fitness facility" means "an indoor or outdoor facility or portion of a facility that is primarily used for: exercise classes; strength and conditioning programs; personal training services; tennis; racquetball;

handball; squash; or pickle ball; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, Pilates equipment, balls, climbing ropes, jump ropes and weightlifting equipment." ESSB 5814 §101(3)(m)(iv)(A).

[4] RCW 82.04.050(8), RCW 82.08.020(1)(b).

[5] RCW 82.32.730(1); see also RCW 82.32.730(9)(f) ("Receive' and 'receipt' mean taking possession of tangible personal property, making first use of digital automated services or other services, or taking possession or making first use of digital goods or digital codes, whichever comes first. . .")

[6] RCW 82.32.730(9)(f).

[7] RCW 82.02.210.

[8] SSUTA Rule 311.1 

[9] See RCW 82.32.730(1)(a) and (b).

[10] See RCW 82.32.730(1)(c) and (d).

[11] See WAC 458-20-193; 458-20-193C.

[12] See WAC 458-20-193; 458-20-193C.

[13] RCW 82.08.130(2) and WAC 458-20-10201(205).

[14] ETA 3242.2025 does not extend to apply the MPU to other types of bundled transactions as it is only applicable for sales of software maintenance agreements.

[15] RCW 82.08.190 and RCW 82.08.195.

[16] See WAC 458-20-169(4).

[17] See WAC 458-20-289(5).



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