



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

OCTOBER 14, 2008

Direct Mail and the Destination-based Sales Tax

Please note: This modified version clarifies the second and third paragraph headings and the information on page two, paragraph two. The original notice was issued on September 24, 2008.

Background

On July 1, 2008, Washington State changed to a destination-based sales tax in order to become a member of the national Streamlined Sales and Use Tax Agreement (SSUTA). Washington retailers that ship or deliver goods to customers within the state must now collect sales tax based on where the customer receives the merchandise. (RCW 82.32.730)

Proposed Amendment

Because the Department of Revenue understood the challenges this change posed for direct mail sellers, it proposed an amendment at the June 18, 2008, SSUTA Governing Board meeting. The amendment will allow in-state direct mail sellers to collect sales tax on direct mail based on the seller's location in Washington, rather than every location to which the mail is delivered in this state. This covers direct mail that originates in Washington and is delivered to another location within the state. The amendment was approved at the June and September 2008 Governing Board meetings. The amendment is now a part of the SSUTA. The Department is actively pursuing legislation, for the 2009 legislative session, to amend Washington's law to include this change for direct mail sellers.

Until the Proposed Amendment becomes Law

- If the seller of direct mail obtains an exemption certificate or direct pay permit from the purchaser, the seller should not collect Washington State sales tax.
- If the seller of direct mail can document that any portion of the direct mail is delivered outside Washington, the seller should not collect Washington State sales tax on that portion.
- If the seller of direct mail does not have jurisdictional information*, it may collect sales tax based on its location. The Department will presume that the seller does not have jurisdictional information.
- If the seller of direct mail substantiates that it has jurisdictional information, it must collect Washington State sales tax on the basis of the "mail-to" addresses that are in Washington.

What is direct mail?

Direct mail is:

- printed material delivered or distributed by United States mail or other delivery service,
- mailed to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser,
- when the cost of the printed material is not billed directly to the recipients.

* "**Jurisdictional information**" is information sufficient to determine the tax jurisdictions to which the direct mail will be delivered. To have jurisdictional information, the seller of direct mail must be able to retain and retrieve the information for purposes of sales or use tax reporting. Typically, this occurs when the seller either owns or maintains the mailing list.

“Direct mail” includes tangible personal property supplied directly or indirectly by the purchaser to the seller for inclusion in the package containing the printed material. “Direct mail” does not include multiple items of printed material delivered to a single address.

Publishers that mail magazines or periodicals to their subscribers do not qualify for the direct mail treatment because the subscribers are charged for publications that they receive.

In-house mailings of promotional materials are not included this direct mail treatment since there is no sale to source. See WAC 458-20-17803.

What types of businesses are eligible for the “direct mail” treatment?

Businesses are eligible for the direct mail treatment if they sell printed materials and are responsible for its delivery or distribution to a mass audience using a mailing list provided by the purchaser or at the direction of the purchaser. The cost of the mailing cannot be billed to the recipient.

If your business is only responsible for delivery of the printed material to another business, such as a mailing bureau, and that other business has the contractual agreement with the customer for the mass distribution, you are not eligible for the direct mail treatment. The sale should be sourced to that one delivery location.

Some businesses reporting under the Printing and Publishing classification of the B&O tax can qualify with respect to some of their jobs. Additionally, mailing bureaus, public relations and advertising firms may also qualify with regard to some jobs.