



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

SEPT. 10, 2010

B&O tax reporting requirement continues after business activity stops

New law changes B&O tax reporting requirement

Effective June 1, 2010, there is a change in the length of time a business continues to have reporting obligations for business and occupation (B&O) tax.

A person who stops the business activity that created nexus in Washington now continues to have nexus for the remainder of that calendar year, plus one additional calendar year. (See RCW 82.04.220)

This “trailing” nexus provision applies to all business and occupation (B&O) tax classifications.

Nexus standards

There are two different nexus standards for B&O tax.

For companies engaged in apportionable activities, the minimum nexus thresholds and the definition of apportionable activities are in WAC 458-20-19401.

For other business activities subject to the B&O tax, such as retailing and wholesaling, nexus continues to be based on the business having a physical presence in Washington.

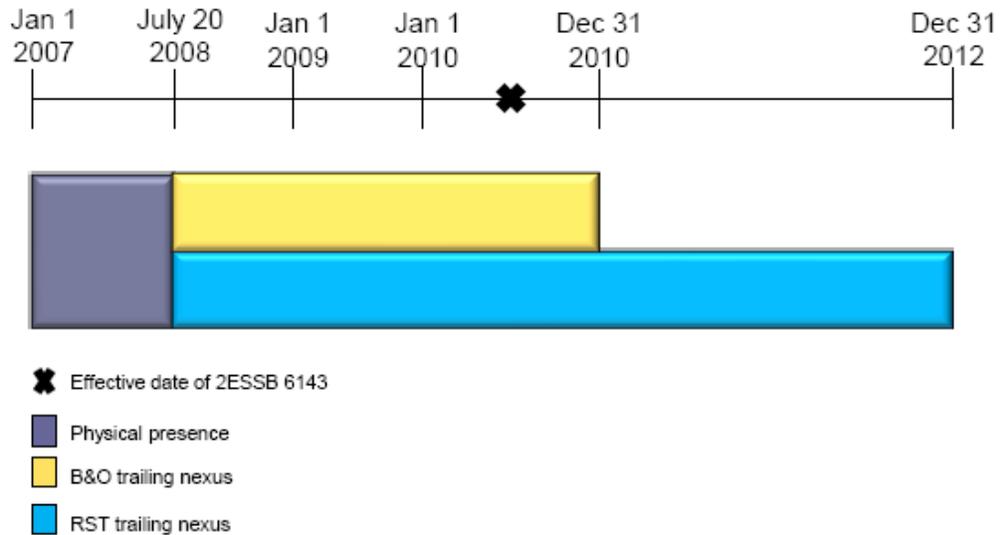
Only B&O tax is affected

This legislation only changes trailing nexus for B&O taxes.

The trailing nexus period for retail sales tax (RST) is still four years, plus the current year, under WAC 458-20-193 (Rule 193).

Example One

The graphic below illustrates a taxpayer who is physically present in Washington and making retail sales in the state until July 20, 2008.



Explanation:

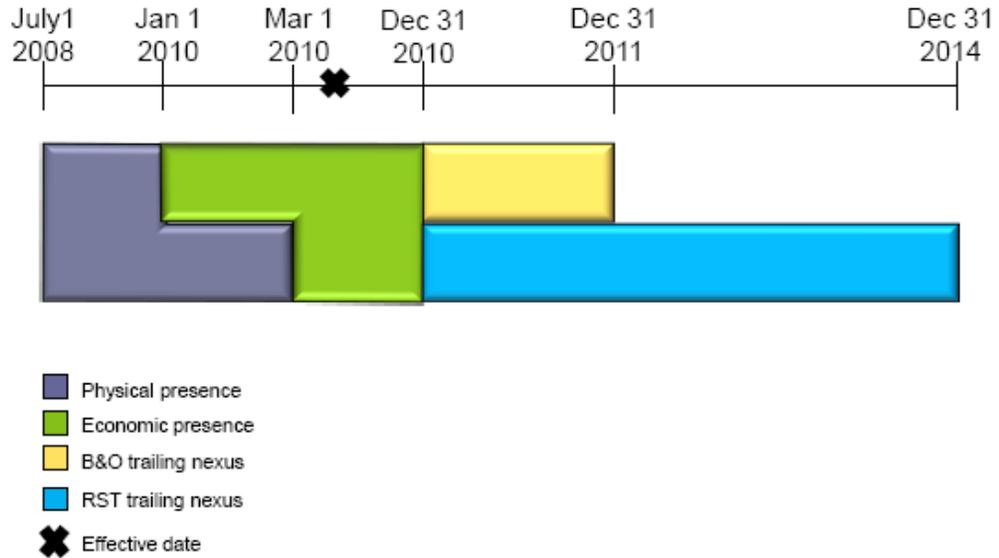
- **B&O tax** – The taxpayer’s B&O tax reporting obligation for any gross receipts earned in Washington ends on Dec. 31, 2010.
- **Retail Sales Tax (RST)** – The taxpayer must collect and remit retail sales tax on sales made in Washington through Dec. 31, 2012.
- **Reporting Instructions** – A taxpayer with retailing activity must report on both the retailing B&O line and the appropriate lines for retail sales tax even after the one-year trailing nexus expires for B&O. The taxpayer should continue to report a gross amount on the retailing B&O line and then take a “no local activity” deduction to arrive at a zero taxable amount.

For B&O classifications other than retailing, there is no reporting requirement after the B&O tax trailing nexus period has passed.

After the trailing nexus period for B&O tax and the continuing nexus period for retail sales tax (if applicable) have passed, the taxpayer may contact the department and request an account closure. The taxpayer must continue to file excise tax returns until the account is closed by the department.

Example Two

The graphic below illustrates a taxpayer who was physically present in Washington making retail sales from July 1, 2008, through March 1, 2010, and exceeded a minimum threshold from apportionable income in 2010.

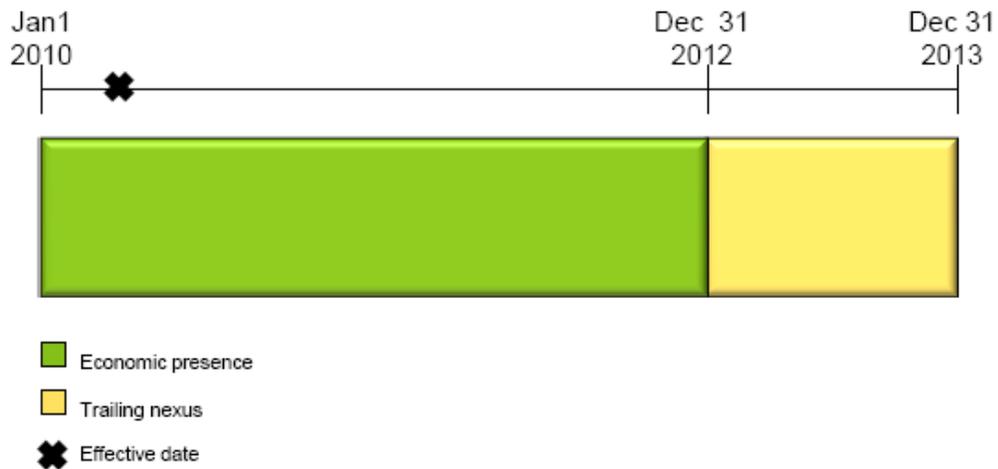


Explanation:

- **B&O tax** – Assuming the taxpayer does not exceed any of the thresholds in 2011, the taxpayer’s B&O tax reporting obligation for any gross receipts earned in Washington ends on Dec. 31, 2011.
 - **Retail Sales Tax (RST)** – The taxpayer must collect and remit retail sales tax on sales made in Washington through Dec. 31, 2014.
 - **Reporting Instructions** – see Example One above.
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Example Three

The graphic below illustrates a taxpayer who exceeded Washington's minimum thresholds for apportionable income from 2010 through 2012.



Explanation:

- **B&O tax** – The taxpayer's B&O tax reporting obligation for any gross receipts earned in Washington ends on Dec. 31, 2013.
- **Retail Sales Tax** – A taxpayer with only economic presence in Washington is not required to collect and remit sales/use tax.
- **Reporting Instructions** –When the one-year continuing nexus period expires, a taxpayer may contact the department and request an account closure. A taxpayer must continue to file excise tax returns until the account is closed by the department. If no business activity has been conducted in a period, the appropriate box on the return should be checked (located to the upper left of the "due date" information on the front of the paper return).

**For more
information**

Visit our website at dor.wa.gov/EconomicNexus, or call
1-800-647-7706.
