



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

MAY 28, 2010

New “Economic Nexus” in Washington State May Impact “Foreign Corporations”

Background

Effective June 1, 2010, Washington State’s new economic nexus standard goes into effect. Under the new economic nexus standard income of foreign corporations without a physical presence in Washington could become subject to Washington’s business and occupation (B&O) tax on an apportioned basis.

Please forward this information to any of your affiliates that also may be affected by this new legislation.

What activities are subject to the economic nexus thresholds?

The new economic nexus thresholds apply to the following B&O tax classifications:

- Service and other activities
- Royalties
- Travel agents and tour operators
- International steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent
- Stevedoring and associated activities
- Disposing of low-level waste
- Title insurance producers, title insurance agents, or surplus line brokers
- Public or nonprofit hospitals
- Real estate brokers
- Research and development performed by nonprofit corporations or associations
- Inspecting, testing, labeling, and storing canned salmon owned by another person
- Representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW
- Contests of chance
- Horse races
- Licensed boarding homes
- International investment management
- Printing or publishing a newspaper, but only with respect to advertising income
- Printing materials other than newspapers, and of publishing periodicals or magazines, but only with respect to advertising income
- Cleaning up radioactive waste and other by-products of weapons production and nuclear research and development, but only with respect to activities that would be taxable as an “apportionable activity” if this special tax classification did not exist

What are the economic nexus thresholds?

Under this new standard a corporation has nexus with Washington State for tax purposes if in a tax year it has at least one of the following in Washington State:

- It is commercially domiciled in Washington;
- Property – average value exceeding \$50,000,
- Payroll exceeding \$50,000 (including certain third party costs),
- Sales exceeding \$250,000, or
- At least 25% of its worldwide property, payroll, or sales.

Note: For purposes of calculating the property, payroll, and sales thresholds for the 2010 tax year, the entire 2010 calendar year is to be used. Starting June 1, 2010, a business will incur B&O tax only if it establishes nexus with Washington under the new economic nexus standards in 2ESSB 6143. For example, Taxpayer X is an out-of-state business with no physical presence in Washington. In 2010, Taxpayer X has \$100,000 of Washington sales in May, \$100,000 in June, and \$100,000 in July. Taxpayer X establishes nexus with Washington by exceeding the \$250,000 sales threshold and will owe B&O tax only on its Washington sales after June 1, 2010. See WAC 458-20-19401 to determine if the thresholds are satisfied.

“Trailing” nexus

Once nexus has been established, it will continue:

- As long as the taxpayer continues to meet at least one of the thresholds; and
- For one year after the year in which the taxpayer no longer meets one of the thresholds.

New apportionment methodology

This legislation also provides a new single factor apportionment methodology based on sales. The new apportionment calculation is discussed in detail in WAC’s 458-20-19402, 19403, and 19404 which are available on the Department’s website at: dor.wa.gov/EconomicNexus.

Reporting under multiple classifications

Taxpayers reporting under more than one of the above tax classifications must calculate a separate receipts factor for each tax classification.

Registering in Washington

Businesses that have nexus under the new standard can obtain a Washington tax registration number and begin reporting B&O tax by visiting our website at dor.wa.gov/EconomicNexus.

Affiliates

Each affiliate (legal entity) must determine for itself whether it has nexus with Washington under this new standard. The State of Washington does not allow for determining nexus or tax reporting on a combined entity or unified basis.

For more information

Visit the Department’s website at dor.wa.gov/EconomicNexus or contact the Department’s Telephone Information Center at 1-800-647-7706.