



**Battershell & Nichols, CPAs  
welcomes you to:**

**Washington State Sales and B&O  
Taxes for Churches and Nonprofits**

**The presentation will begin shortly...**



# CPE needed?

**Within one week, send an email requesting CPE, complete the course evaluation, and provide the list of CPE codes provided during the presentation to:**

**[info@battershellnichols.com](mailto:info@battershellnichols.com)**

**(Only available for those attending live)**

**All CPE codes are provided in the presentation via polls.**



# Remote Accounting Services

- We provide bookkeeping services to churches and Christian nonprofits including:
  - Produce a monthly financial report for leadership
  - Process contributions and bills
  - Record all transactions in the general ledger
  - Reconcile bank accounts, credit cards, and close the books each month
  - Process payroll and file all quarterly and annual payroll forms
  - Provide budget and cash flow projection oversight
  - Give assistance with internal controls

# Remote Accounting Services

- Why do we provide this service?
  - With online software solutions dramatically improving, outsourced bookkeeping has become a popular alternative to in-house bookkeeping
- Top reasons our clients use our remote accounting services:
  - Managing finances distracts the organization from its mission
  - Leadership and members have increased confidence in their finances
  - Tax and accounting regulations are complex and changing faster than ever
  - They want a trusted advisor to provide CPA oversight

## **DISCLAIMER:**

- *The author is not engaged by this text or webinar in the rendering of tax, accounting, or similar professional services.*
- *While the tax, and accounting issues discussed in this material have been reviewed with sources believed to be reliable, concepts discussed can be affected by changes in the law or in the interpretation of such laws since this text was printed. For that reason, the accuracy and completeness of this information and the opinions based thereon cannot be guaranteed.*
- *Before taking any action, all references and citations should be checked and updated accordingly.*

# Washington State Sales and B&O Taxes for Churches and Nonprofits

**September 22, 2022**

By: Rick Battershell, CPA



# Washington Administrative Code (WAC) 169-20-169 introduction:

1. Unlike the tax systems of most states and the federal government, Washington's tax system, including its primary business tax, applies to the activities of nonprofit organizations.
2. Washington's business and occupation (B&O) tax is imposed on all entities (including churches and nonprofits) that generate gross receipts or proceeds, **unless there is a specific statutory exemption or deduction.**
3. The rule describes the most common B&O, retail sales, and use tax exemptions and deductions that are specifically provided to nonprofit organizations by state law.

# Registration and Tax Reporting

(WAC 169-20-101)

1. With the exceptions noted on the next slide, every person who is engaged in any business activity, for which the department is responsible for administering and/or collecting a tax or fee, must apply for and obtain a tax registration endorsement with the WA State Department of Revenue.
  - a) Applies to entities including churches and other nonprofits (RCW 82.04.030 and WAC 458-20-203)
  - b) Applies to all who should collect sales taxes
2. This endorsement is printed on the face of the business license document.



# When Registration Is Not Required:

(WAC 169-20-101)

1. When there is less than \$12,000 per year of gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW (business and occupation (B&O) tax), **and**
2. If the organization is not required to collect or pay retail sales tax (e.g. no retail sales) nor any other tax, **and**
3. The organization is not otherwise required to obtain a business license.

## When Tax Filing “Active Nonreporting Status”:

(WAC 169-20-101)

The department may relieve any entity of the requirement to file returns by placing them in an active nonreporting status if all of the certain conditions are met, including:

1. Less than \$24,000 per year of gross proceeds of sales, or gross income of the business, from all business activities,
2. Less than \$48,667 per year of gross receipts if at least 50% of activities are taxable under “service and other activities” B&O tax classification,
3. Not required to collect or pay retail sales tax or any other tax,
4. Responsibility to notify department about change in status (if their activities do not meet any of the conditions for nonreporting status)

# Registration and Tax Reporting – Example

(WAC 169-20-101)

**Question:** First Church is opening a bookstore to sell Bibles and Christian books to its members. The gross proceeds of sales are expected to be less than \$12,000 per year.

**Answer:** First Church must apply for and obtain a tax registration endorsement with the WA State Department of Revenue. While gross income is expected to be less than \$12,000 per year, First Church is still required to collect and remit retail sales tax when books are sold.

# Registration and Tax Reporting

(WAC 169-20-101)

➤ **Question:** Do churches and non-profits really need to worry about this?

➤ **Answer:** Yes.

1. Several churches and nonprofit organizations have been audited by the Washington State Department of Revenue and were billed for substantial, unpaid use tax.
2. The audit period used by the state is the previous four calendar years, plus the current year through the end of the last completed calendar quarter.
3. If the state finds an instance in which use or sales tax was not paid, they use the amount from their sample and extrapolate that percentage over the entire period to determine the tax liability.
4. Potential back taxes and penalties can be costly.

# Sales Tax Exemption on Purchases in Washington?

- Unlike some other states
- A nonprofit organization must pay retail sales tax when it purchases goods or retail services for its own use as a consumer, unless:
  1. The purchase is specifically exempt by statute.
    - See “fund-raising exemption” discussed later
  2. Items purchased for resale without intervening use are purchases at wholesale and are not subject to the retail sales tax:
    - if the seller takes from the buyer a copy of the buyer's reseller permit. The reseller permit documents the wholesale nature of any sale.
    - For additional information on reseller permits see WAC 458-20-102

# Use Taxes on Purchases in WA State

- “Use tax” must be paid by all who purchase items at retail in Washington State (including churches and nonprofit organizations) if the retail sales tax has not previously paid by that person on the item - unless an exemption applies.
- The amount of “use tax” = the same rate of tax as the retail sales tax rate that applies at the location where the property is first used.

**Example #1:** First Church Christian Education Department purchases \$985 of curriculum from the church’s denominational offices which are out of state and no sales tax is charged. Is the church supposed to pay use tax on these sales?

Answer #1 – YES

**Example #2:** Is the church still required to pay Washington State sales tax if the church pays its out of state denominational offices their state sales tax at 4%?

Answer #2 – YES - however there is a credit for the sales tax already paid.

# Use Taxes on Purchases in WA State:

**Example #3:** A church member sells the church her grand piano for \$15,000, which does not include sales tax. Is the church required to pay use tax?

Answer #3 – YES

**Example #4:** A donor, who is a contractor bills First Church for construction costs on a remodel project, but the contractor does not charge sales tax for the work. Is the church required to pay use tax?

Answer #4 – YES

## Credit card processing fees vs. online contribution services (Washington State sales tax)

**Example #5:** A nonprofit organization receives donations and class fees online and pays processing fees to the processing company who deposits the donations into the organization's bank. Is this service subject to sales tax?

Answer #5 – Online credit card and ACH fees are considered data processing services and **are excluded** from sales/use tax per WAC 458-20-15503 (303)(d)

**Example #6:** A nonprofit organization pays for an online service that not only collects donations and payments and transfers the funds into the client's bank account, but **also provides** a platform to manage the organization's donor base, generates detailed reports, and prepares giving statements. The cost of the service is bundled into one monthly fee. Is this service subject to sales tax?

Answer #6 - The monthly fee for this **bundled service is** subject to sales/use tax as a digital automated service.



## Background checks vs. credit worthiness checks (Washington State sales tax)

**Example #7:** An organization pays a per person fee for a background check that excludes checking for credit worthiness. Is this service subject to sales tax?

Answer #7 – The cost for this background check is not subject to sales/use tax.

**Example #8:** An organization pays a per person fee for a background check that includes checking for credit worthiness. Is this service subject to sales tax?

Answer #8 - The cost for the entire background check is subject to sales/use tax. WAC 458-20-15503 (601).

## Photography services vs. sales of photos (Washington State sales tax)

See: <https://dor.wa.gov/education/industry-guides/photography-tax-guide>

**Example #9:** An organization hires a photographer. The photographer charges a flat fee for his services and provides a CD with the digital photographs. The photographer clearly indicates on the invoice that he gives the user all rights to use the photographs. Is this service subject to sales tax?

Answer #9 – Yes, the photography service is subject to retail sales or use tax. This includes shooting fees, travel expenses, miscellaneous expenses, and charges for photographs.

**Example #10:** An organization hires a photographer to take pictures of its church members, prepare a church directory, and provide 200 copies of the directory. Is this service subject to sales tax?

Answer #10 – Yes. When the photographer is hired to take pictures and create a directory, the charge for taking the pictures is essentially a “sitting fee”. The entire amount charged by the photographer is subject to retail sales or use tax.

# Exemptions from B&O, Sales, & Use Taxes

## Includes:

- 1) Charitable contributions,
- 2) Real estate rentals – 24/7 rentals (see prior webinar),
- 3) Camps and conference centers – on property exempt from tax
- 4) Tuition charged by schools approved by the Washington State Board of Education
- 5) Tuition from day care provided by churches for care of children of any age for periods of less than 24 hours, provided the church is exempt from property tax
- 6) Tuition for the care or education of children who are under 8 years of age and not enrolled in or above the 1st grade is exempt from B&O tax by non-church organizations
- 7) Certain “fundraising” activities (see next slide for more details)
- 8) Other exemptions not listed.

# Fundraising Exemption

WAC 458-20-169(5)(g)

## Requirements:

- 1) Organization is exempt from IRS taxes under IRC Sec 501(c)(3), (also applies to (4) social welfare, or (10) fraternal societies operating as lodges).
- 2) Engaging in a "fundraising activity"- which means soliciting or accepting contributions of money or other property, or activities involving the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited, for furthering the goals of the nonprofit organization.
- 3) The activity does not take place in a regular place of business in which services are provided or sales are made during regular hours such as a bookstore, thrift shop, restaurant, legal or health clinic, or similar business. It also does not include the operation of a regular place of business from which services are provided or performed during regular hours such as the provision of retail, personal, or professional services. A regular place of business and the regular hours of that business depend on the type of business being conducted.

**Example:** A church group, that raises money for mission trips or other youth or adult activities, sets up an espresso stand that is open for two hours every Sunday morning during the year. The espresso stand is a regular place of business with regular hours for that type of business. The money earned from the espresso stand is not exempt, even though the amounts are raised to further the church's nonprofit purpose.



## Classes Held For Members (Washington State Business & Occupation Tax)

**Question:** Should churches be paying B&O tax on receipts from church events which are held on church property, such as classes held for members of the church, which are educational and religious in nature? Fees for exercise classes?

**DOR Response:** Yes. In Washington, nonprofit organizations, including churches, are generally taxed like any other business. They must pay business and occupation (B&O) tax on gross revenues generated from regular business activities they conduct. Therefore, the church must report B&O tax on the charges for classes held for members of the church

# “Suggested Donations” (Washington State Business & Occupation Tax)

**Question:** If a church provides food and beverages after services for a “suggested donation”, is this subject to sales or B&O taxes?

**DOR Response:** Generally donations are not subject to business and occupation (B&O) or retail sales tax as long as the donor does not receive any significant goods or services in exchange for the donations.

- 1) If the meals are only available for providing a suggested donation amount or more, then the food would be subject to B&O tax under the “Retailing” classification and sales tax must be collected.
- 2) Assuming this is a true donation, where people can partake in the same food without donating, then the income received is not subject to business and occupation (B&O) tax or retail sales tax.

**Excise Tax Advisory 3082.2009:** ... if the meal provider posts signs, prints tickets, or suggests so-called donation amounts expected to be paid by meal consumers, then retail sales do occur and retail sales tax must be collected. A sign posted such as "Donation \$5.00" creates a taxable transaction, whereas a sign such as "Donations accepted to support this program" will not be deemed to create a taxable situation.

## “Collecting Funds for Youth Outing” (Washington State B&O and Sales Taxes)

**Question:** We occasionally have youth or other groups doing a group activity outside the church and we collect funds in advance to make it easier at the gate and to confirm payment for all the individuals who are attending. Is this subject to sales or B&O taxes (e.g. the church youth leader collects the \$10 fee charged by the business location for attending plus \$5 for pizza after the event)?

**DOR Response:** If the church collects money to purchase an activity for its church youth group, this activity is not considered a taxable business activity (assuming the price is not marked up to create a profit). Therefore, the fees charged would not be subject to business and occupation (B&O) or retail sales tax and do not need to be reported on the Washington excise tax return as income.

Note: Certain recreational activities < <https://dor.wa.gov/forms-publications/publications-subject/tax-topics/recreational-services-glance>> are subject to sales tax in Washington State. If the church purchases a retail recreational activity, then the church must pay sales tax to the business on this purchase.

## “Church Men’s or Women’s Retreat” (Washington State B&O and Sales Taxes)

**Question:** Our church men’s and women’s retreats start Friday evening and run through Sunday morning. They include snacks meals and lodging. Are the collection of fees for these retreats subject to Washington state B&O or sales tax?

**DOR Response:** If the retreat is conducted on property exempt from property tax under RCW 84.36.030(1),(2), or (3) the fees received by the church for the men’s and women’s retreats would be exempt from business and occupation tax and the retail sales tax.

However, if the retreat is conducted on property not exempt from the property tax under the RCW cited above, the church must report retailing B&O and collect and report sales tax on the fees received for the men’s and women’s retreats.

Also, based on the information provided, the Special Hotel/Motel tax may apply to the lodging at rates from 1.0% to 5% in certain areas.

**B&N Note:** RCW 84.36.030(1),(2), or (3) = Church Camps, Camps for character development and similar camps

Church property tax exemption is found under RCW84.36.020





## “Parking Space Rentals” (Washington State B&O and Sales Taxes)

**Question:** A large employer wants to use 50 parking stalls in the church parking lot between the hours of 6 AM and 8 PM on Monday through Friday. The term of the lease is 12 months for \$1000 per month. Is this lease subject to B&O or sales taxes?

**DOR Response:** Yes. The church is required to collect retail sales tax on the charge for parking and the gross income is subject to the B&O tax under the “**Retailing**” classification.

# “Facility Rentals”

## (Washington State B&O and Sales Taxes)

**Question:** The only amounts received by the church are donations and rental income from another church using our facility a few days per week. Is this rental income subject to B&O taxes?

**DOR Response:** Amounts received that are considered donations are not subject to business and occupation (B&O) tax. But the amounts received for renting your facility to another church appear to be subject to B&O tax.

**Long-term real property rentals** (24/7 use for at least 30 continuous days) are exempt from tax,

However, **part-time use** (considered “licenses to use” the real property) are subject to B&O tax under the **Service and other activities** classification.

Keep in mind that you will not owe B&O tax until your income exceeds \$46,667 annually because of the small business B&O tax credit, provided this is your only taxable business activity.

**B&N Note:** Rental fees charged for use of the church for weddings or other uses are also subject to B&O tax under the “service and other activities” classification.



## “Cell Tower Rental” (Washington State B&O Taxes)

**Question:** Is the rental of space on a cell tower owned by a nonprofit subject to B&O taxes?

**DOR Response:** Based on WAC 458.20.211, this income is most likely subject to business and occupation (B&O) tax.

**B&N Note:** Rental income for the long-term lease of land, upon which a the cell tower operator constructs and operates a tower, would NOT be subject to B&O tax under the real estate rental exemption. See WAC 458-20-118

## Not sure if something is subject to Washington state tax?

**Question:** How can I know for sure about exceptions, or how can I determine if a specific payment requires use tax?

Answer – **When in doubt, ask Washington State Department of Revenue to spell it out!** The exceptions and details on the revenue codes are very complicated, so **please note this presentation does not include every situation or exception.** If you have **ANY** doubt, ask the State of Washington for a written ruling. You can do this by using your online access to send an email online. **Important:** Keep a copy of the email and response in case of an audit.

<https://dor.wa.gov/contact/request-tax-ruling>

# The Church Network – Pacific NW Chapter



- Restarting Zoom meeting:
- 3:30pm tomorrow 9/22/2022
- Interest in being involved or attending Zoom?

Meeting ID: 859 3055 5895  
Passcode: 12345

# Online Survey

**Please take 1 minute to complete our online survey**

**Your feedback helps us with future webinar topics**

# CPE needed?

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# Next Webinar



**Wednesday**, November 2, 2022

**Topic: To be announced**



# Thank you for joining us

Please reach out with any questions:

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(253) 839-1620

