



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Department of Revenue

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) **(If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)**

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** WAC 458-20-102 (Rule 102) *Reseller permits*. This rule provides information pertaining to reseller permits issued by the Department.

The Department has revised Rule 102 to remove outdated information and terminology. In addition, a reference to WAC 458-20-192 *Indians – Indian country*, and an example explaining that services performed on foreclosed properties are retail sales, has been added.

**Citation of existing rules affected by this order:**

Repealed:

Amended: WAC 458-20-102 *Reseller permits*

Suspended:

**Statutory authority for adoption:** RCW 82.32.300 and 82.01.060(2)

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as **WSR 16-01-067 on December 14, 2015.**

Describe any changes other than editing from proposed to adopted version: **None.**

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **An analysis was not prepared.**

**Date adopted:**

February 25, 2016

**NAME**

Kevin Dixon

**SIGNATURE**

**TITLE**

Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: February 25, 2016**

**TIME: 9:30 AM**

**WSR 16-06-058**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	Amended	Repealed
<b>Federal rules or standards:</b>	New	Amended	Repealed
<b>Recently enacted state statutes:</b>	New	Amended	Repealed

**The number of sections adopted at the request of a nongovernmental entity:**

New	Amended	Repealed
-----	---------	----------

**The number of sections adopted in the agency's own initiative:**

New	Amended	1	Repealed
-----	---------	---	----------

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	Amended	Repealed
-----	---------	----------

**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	Amended	Repealed	
<b>Pilot rule making:</b>	New	Amended	Repealed	
<b>Other alternative rule making:</b>	New	Amended	1	Repealed

AMENDATORY SECTION (Amending WSR 11-12-021, filed 5/24/11, effective 6/24/11)

**WAC 458-20-102 Reseller permits.** (1) **Introduction.** This ~~((section))~~ rule provides information about reseller permits issued by the department of revenue (department). ~~((Effective January 1, 2010, reseller permits replaced resale certificates as the documentation necessary to substantiate the wholesale nature of a sales transaction.))~~ The department issues reseller permits ((are issued)) to businesses that make wholesale purchases, such as retailers, wholesalers, manufacturers, and qualified contractors. The permits allow the businesses to purchase certain items or services ~~((at wholesale))~~ without paying retail sales tax. ~~((Additional information can be found on the department's internet site: <http://dor.wa.gov>.~~

~~((a))~~ ~~**What other sections provide related information?**~~ The following sections may contain additional relevant information:

~~((a))~~ (a) Other rules that may apply. Readers may want to refer to other rules for additional information, including those in the following list:

(i) WAC 458-20-101 (Tax registration and tax reporting) for information on who is required to register and file returns;

(ii) WAC 458-20-10201 (Application process and eligibility requirements for reseller permits) for ((more)) information about the application process and eligibility requirements for obtaining a reseller permit;

~~((a))~~ (iii) WAC 458-20-10202 (Brief adjudicative proceedings for matters related to reseller permits) for ((more)) information about the procedures for appealing the denial of an application for a reseller permit; ((and

~~((a))~~ (iv) WAC 458-20-102A (Resale certificates)((, which explains the)) for information about resale certificate documentation requirements for wholesale sales occurring before January 1, 2010; and

(v) WAC 458-20-192 (Indian-Indian country) for information on the extent of the state's authority to regulate and impose tax in Indian country.

(b) **Examples.** ~~((This section contains examples which))~~ Examples found in this rule identify a number of facts and then state a conclusion. ~~((The))~~ These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all ~~((of))~~ the facts and circumstances.

(2) **What is a reseller permit?** A reseller permit is a document issued to a business by the department that the business provides to a seller to substantiate a wholesale purchase. Each reseller permit contains a unique identifying number. Businesses should keep the original permit and make and distribute copies of the permit to sellers from whom they make wholesale purchases as described in subsection (6) of this ~~((section))~~ rule. Sellers ~~((can))~~ may store copies of reseller permits in either paper or electronic format.

The reseller permit document issued by the department contains an optional, blank "Notes" section in which the permit holder ~~((can))~~ may provide additional information, such as a description of the items or services the permit holder wishes to purchase at wholesale.

(3) **Who may use a reseller permit?** The buyer may authorize any person in its employ to use a copy of the buyer's reseller permit on the buyer's behalf. However, misuse of the reseller permit subjects the buyer to:

- Revocation of the reseller permit;
- Penalties as provided in RCW 82.32.290 and 82.32.291; and
- Tax, interest, and any other penalties imposed by law.

The buyer is responsible for educating all persons authorized to use the reseller permit on the proper use of the buyer's reseller permit.

(4) **How long is a reseller permit effective?** Except as otherwise provided in this subsection, a reseller (~~((permits are))~~) permit is generally valid for a period of forty-eight months from the date of issuance, renewal, or reinstatement.

(a) **Conditions when permit is effective for twenty-four months.** A reseller permit is valid for ((a)) an initial period of twenty-four months and may be renewed for a period of forty-eight months, (~~((effective July 1, 2010,))~~) if the permit is issued to a taxpayer who:

(i) Is not required to be registered with the department under RCW 82.32.030;

(ii) Has been registered with the department under RCW 82.32.030 for a continuous period of less than one year as of the date that the department received the taxpayer's application for a reseller permit;

(iii) Was on nonreporting status as authorized under RCW 82.32.045(~~((+4))~~) at the time (~~((that))~~) the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit;

(iv) Has filed excise tax returns reporting no business activity for purposes of retail sales and business and occupation (B&O) taxes for the twelve-month period immediately preceding the date that the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit; or

(v) Has failed to file excise tax returns covering any part of the twelve-month period immediately preceding the department's receipt of the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit.

(b) **Federally recognized Indian tribe.** The provisions of (a) of this subsection do not apply to reseller permits issued to any business owned by a federally recognized Indian tribe or by an enrolled member of a federally recognized Indian tribe, if the business does not engage in any business activity that subjects the business to the B&O tax (chapter 82.04 RCW). (~~((Permits))~~) A permit issued to such (~~((businesses are))~~) business is valid for forty-eight months from the date of issuance, renewal, or reinstatement.

(c) **Contractors.** (~~((Except as otherwise provided in this subsection (c), until June 20, 2013,))~~) A reseller permit issued, renewed, or reinstated to a "contractor" as defined in WAC 458-20-10201(~~((+302) will be))~~) (101) is valid for a period of (~~((twelve))~~) twenty-four months from the date of issuance, renewal, or reinstatement.

(~~((i) Beginning July 1, 2013, reseller permits issued, renewed, or reinstated to a contractor will be valid for a period of twenty-four months from the date of issuance, renewal, or reinstatement.~~

(~~((ii) However, the department may issue, renew, or reinstate permits for a period of twenty four months beginning July 1, 2011, if the department is satisfied that the contractor is entitled to make purchases at wholesale and that issuing or renewing the reseller permit in this manner is unlikely to jeopardize collection of sales taxes due based on the criteria discussed in WAC 458-20-10201(305).))~~

(d) **Renewal of reseller permit.** An application(~~((s))~~) to renew a reseller permit cannot be made more than ninety days before the expiration of the reseller permit.

(e) **Business ownership change.** A new reseller permit is required whenever a change in the ownership of the buyer's business requires a new tax registration. (~~((See WAC 458-20-101 Tax registration and tax reporting.))~~) The new business may not make purchases under the authority of the reseller permit issued to the business before the change in ownership.

(f) **Revoked or invalid reseller permit.** Purchases may not be made under the authority of a reseller permit that has been revoked by the department or is otherwise invalid. For more information about reseller permit revocation or other invalidation of reseller permits, see subsection (14) of this (~~(section))~~ rule.

(5) **Sales at wholesale.** All sales are treated as retail sales unless the seller takes from the buyer a copy of a reseller permit, a uniform exemption certificate authorized by RCW 82.04.470, or obtains the data elements (~~(as))~~ described in subsection (7) of this (~~(section))~~ rule. Reseller permits may only be used for sales at wholesale and generally may not be used as proof of entitlement to retail sales tax exemptions otherwise provided by law.

(6) **When may a buyer use a reseller permit?** The buyer may use a reseller permit only when making wholesale purchases. (See RCW 82.04.060 for additional information.) The reseller permit may not be used when making tax-exempt retail purchases.

(7) **Seller's responsibilities.** The seller has the burden of proving that the buyer had a reseller permit at the time of sale. A seller may meet (~~(its))~~ that burden by taking from the buyer, at the time of sale or within one hundred twenty days after the sale, a copy of (~~(a))~~ the reseller permit issued to the buyer by the department under RCW 82.32.780 or 82.32.783.

(a) **Registered buyer.** In lieu of a copy of a reseller permit issued by the department, pursuant to RCW 82.04.470 a seller may accept from a buyer that is **required** to be registered with the department under RCW 82.32.030:

(i) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board; or

(ii) Any other exemption certificate (~~(as may be))~~ authorized by the department and properly completed by the buyer.

(b) **Inclusion of reseller permit number.** Certificates authorized in (a)(~~(i) and (ii))~~) of this subsection must include the reseller permit number issued by the department to the buyer.

(c) **Seller not required to verify buyer's registration.** A seller (~~(who))~~ that accepts exemption certificates authorized in (a) of this subsection is not required to verify with the department whether the buyer is required to be registered with the department under RCW 82.32.030. (~~(It must be noted, however, that))~~ Nothing in (c) of this subsection ((e)) may be construed to modify any of the provisions of RCW 82.08.050.

(d) **Buyer not required to be registered.** In lieu of a copy of a reseller permit issued by the department, pursuant to RCW 82.04.470 a seller may accept from a buyer that is **not required** to be registered with the department under RCW 82.32.030:

(i) A properly completed uniform sales and use tax exemption certificate developed by the multistate tax commission;

(ii) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board; or

(iii) Any other exemption certificate (~~(as may be))~~ authorized by the department and properly completed by the buyer.

The Streamlined Sales and Use Tax Agreement Certificate of Exemption and the Multistate Tax Commission Uniform Sales and Use Tax Exemption Certificate ~~((ean))~~ may each be obtained on the department's ~~((internet))~~ web site at ~~((http://dor.wa.gov))~~ dor.wa.gov.

(e) **Seller not required to verify buyer's requirement to be registered.** A seller ~~((who))~~ that accepts a uniform exemption certificate authorized in (d) of this subsection is not required to verify with the department whether the buyer is required to be registered with the department under RCW 82.32.030. ~~((It must be noted, however, that))~~ Nothing in this subsection (7)(e) may be construed to modify any of the provisions of RCW 82.08.050.

(f) **Data elements.** In lieu of obtaining a reseller permit or the documentation in (a) or (d) of this subsection, RCW 82.08.050~~((7))~~ authorizes a seller to capture the relevant data elements as allowed under the streamlined sales and use tax agreement. "Data elements" are the information required to be supplied on the actual Streamlined Sales and Use Tax Agreement Certificate of Exemption including: Name, address, type of business, reason for exemption, reseller permit number as applicable in this rule, identification number required by the state to which the sale is sourced, state and country issuing identification number, and if a paper form is used, ~~((a))~~ the signature of the purchaser. See Streamlined Sales Tax Governing Board, Inc. Rule 317.1~~((A))~~ for more information.

(g) **The term "reseller permit."** For purposes of this ~~((section))~~ rule, unless otherwise specified, the term "reseller permit" hereinafter contemplates all of the following: A copy of a reseller permit, a uniform exemption certificate authorized by RCW 82.04.470 as described in (a) and (d) of this subsection, or data elements as described in (f) of this subsection.

(h) **Seller must provide documentation or information.** If the seller has not obtained a reseller permit or the documentation described in (a), (b), (d), or (f) of this subsection, the seller is liable for the tax due unless it ~~((can sustain the burden of proving that a sale is a wholesale sale by demonstrating))~~ proves by establishing facts and circumstances that show the sale was properly made at wholesale. The department will consider all evidence presented by the seller, including the circumstances of the sales transaction itself, when determining whether the seller has met its burden ~~((of proof))~~. It is the seller's responsibility to provide the information necessary to evaluate the facts and circumstances of all sales transactions for which reseller permits ~~((are))~~ were not obtained. Facts and circumstances that should be considered include, but are not necessarily limited to, the following:

- The nature of the buyer's business. The items being purchased at wholesale must be consistent with the buyer's business. For example, a buyer having a business name of "Ace Used Cars" would generally not be expected to be in the business of selling furniture;

- The nature of the items sold. The items sold must be of a type that would normally be purchased at wholesale by the buyer; and

- Additional documentation. Other available documents, such as purchase orders and shipping instructions, should be considered in determining whether they support a finding that the sales are sales at wholesale.

(i) **Annual electronic verification.** ~~((Notwithstanding anything in))~~ Per RCW 82.04.470 ~~((to the contrary,))~~ a seller ~~((who))~~ that maintains records establishing that it uses electronic means to verify, at least once per calendar year, the validity of its customers'



reseller permits need not take a copy of a reseller permit or other documentation or the data elements as authorized in (a), (d), or (f) of this subsection for wholesale sales to those customers with valid reseller permits as confirmed by the department for all sales occurring within twelve months following the date that the seller last electronically verified the validity of its customers' reseller permits, using the department's reseller permit verification system. A seller that meets the requirements of this subsection will be deemed to have met its burden of proving a sale is a wholesale sale rather than a retail sale.

(j) ~~((Can))~~ **May a seller request a refund for sales tax paid out-of-pocket after obtaining appropriate documentation?** If the seller is required to make payment to the department, and later is able to ~~((present the department with))~~ prove through proper documentation or ~~((prove))~~ by facts and circumstances that the sales in question ~~((are))~~ were wholesale sales, the seller may in writing request a refund of the taxes paid along with the applicable interest. Both the request and the documentation or proof that the sales in question ~~((are))~~ were wholesale sales must be submitted to the department within the statutory time limitations provided by RCW 82.32.060. ~~((See WAC 458-20-229 Refunds.) However,))~~ For information on requesting refunds see WAC 458-20-229. In the event of an audit, refer to (m) of this subsection ((in the event of an audit situation)).

(k) **Timing requirements for single orders with multiple billings.** If a single order or contract will result in multiple billings to the buyer, and a reseller permit was not obtained by the seller or on file with the seller at the time the order was placed or the contract entered, the seller may obtain a reseller permit ~~((must be received by the seller))~~ within one hundred twenty days after the first billing. For example, a subcontractor entering into a construction contract for which it has not received a reseller permit must obtain it within one hundred twenty days of the initial construction draw request, even though the construction project may not be completed at that time and additional draw requests will follow.

(l) **Proof of wholesale sales obtained, from a buyer not required to be registered, after one hundred twenty days have passed from sale date.** If proof that a sale was a wholesale sale is obtained more than one hundred twenty days after the sale or sales in question, the non-registered buyer must specifically identify the sale or sales to which it applies. Certificates, such as a uniform exemption certificate, ~~((used))~~ must be accompanied by other documentation signed by the buyer specifically identifying the sales in question and stating that the provisions of the accompanying certificate apply. A nonspecific certificate that is not obtained within one hundred twenty days is generally not, in and of itself, acceptable proof of the wholesale nature of the sales in question. The certificate and/or required documentation must be obtained within the statutory time limitations provided by RCW 82.32.050.

(m) **Additional time to secure documentation in an audit ((situation)).** If ~~((in event of))~~ during an audit the department discovers that the seller has not secured, as described in this subsection, the necessary certificates and/or documentation, the seller will generally be allowed one hundred twenty days in which to obtain and present appropriate certificates and/or documentation, or prove by facts and circumstances the sales in question ~~((are))~~ were wholesale sales. The time allotted to the seller will commence from the date the auditor initially provides the seller with the results of the auditor's whole-

sale sales review. The department will not delay processing ~~((of))~~ the audit report ~~((will not be delayed))~~ as a result of the seller's failure within the allotted time to secure and present appropriate documentation, or its inability to prove by facts and circumstances that the sales in question were wholesale sales.

(8) **Department's reseller permit verification system.** Pursuant to RCW 82.32.785, the department has developed a system available on its ~~((internet))~~ web site that allows sellers to voluntarily verify whether their customers' reseller permits are valid. Sellers are ~~((under no obligation))~~ not obligated to use the verification system. The system is accessible at the ~~((department's internet site: http://dor.wa.gov))~~ department's web site at dor.wa.gov. Information available on the system includes the name of the permit holder, the status of the reseller permit, and the expiration date of the permit.

(9) **Penalty for improper use of reseller permit.** If any buyer improperly uses a reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase items or services at retail without payment of sales tax that ~~((was))~~ is legally due on the purchase, the department must assess against that buyer a penalty of fifty percent of the tax due on the improperly purchased item or service. See RCW 82.32.291. This penalty is in addition to all other taxes, penalties, and interest due, and ~~((can be imposed))~~ applies even if there was no intent to evade the payment of retail sales tax. The penalty will be assessed by the department and applies only to the buyer. However, see subsection (13) of this ~~((section))~~ rule for situations in which the department must waive the penalty.

(a) **Improper use of reseller permit.** A buyer that purchases items or services at retail without payment of sales tax legally due on the purchase is deemed to have improperly used a reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase the items or services without payment of sales tax and is subject to the penalty described above in this subsection if the buyer:

(i) Furnished to the seller a reseller permit number, a reseller permit or copy of a reseller permit, or other documentation authorized under RCW 82.04.470 to avoid payment of sales tax legally due on the purchase; or

(ii) ~~((Made the purchase))~~ Purchased from a seller that had previously used electronic means to verify the validity of the buyer's reseller permit with the department and, as a result, did not require the buyer to provide a copy of its reseller permit or furnish other documentation authorized under RCW 82.04.470 to document the wholesale nature of the purchase. In such cases, the buyer bears the burden of proving that the purchases made without payment of sales tax were qualified purchases or the buyer remitted deferred sales tax directly to the department. The buyer not realizing that sales tax was not paid at the time of purchase is not reason for waiving the penalty.

Persons ~~((who purchase))~~ purchasing articles or services for dual purposes (i.e., some for their own consumption and some for resale) should refer to subsection (12) of this ~~((section))~~ rule to determine whether they may furnish a reseller permit to the seller.

(b) **Examples.**

(i) **Example 1.** During a routine audit examination of a jewelry store, the department discovers that a dentist has furnished a reseller permit for the purchase of a necklace. The "Notes" section of the reseller permit indicates that in addition to operating a dentistry



practice, the dentist also sells jewelry. The jewelry store correctly accepted the reseller permit as appropriate documentation.

Upon further investigation, the department finds that the dentist is not engaged in selling jewelry. The department will impose the retail sales tax, interest, and the fifty percent penalty for improper use of the reseller permit against the dentist.

(ii) **Example 2.** M&M Plumbing Supply (M&M) has several regular customers (~~who~~) that make purchases at wholesale. M&M uses the department's reseller permit verification system to find all regular customers that have a reseller permit. M&M keeps the required data elements in its system and begins to make wholesale sales to all customers the system shows have a reseller permit. While it is best for sellers to ensure customers intend to purchase at wholesale, in this case, M&M has satisfied its requirement to ensure that customers making wholesale purchases have reseller permits. It is the customer's responsibility to review purchase invoices to ensure that deferred sales tax is paid if the purchase is not a valid wholesale purchase. If the customer does not pay the tax due on the next tax return, the misuse penalty will be assessed.

(iii) **Example 3.** ABC Bank hired Sam's Clean-Up Services (Sam's) to provide a variety of services at properties they had foreclosed on and owned. Sam's has provided services such as securing the sites, winterizing, and making safety repairs. Other services provided included lawn and yard services, debris removal, cleaning fixtures, repairing walls and painting. These types of services on foreclosed properties are generally retail sales and the use of a reseller permit by ABC Bank is a misuse of it. The department will impose the retail sales tax, interest, and the fifty percent penalty for improper use of the reseller permit.

(10) **Sales to nonresident buyers.** If the buyer is a nonresident (~~who is~~), not engaged in business in this state and is not required to be registered with the department under RCW 82.32.030 but buys articles here for the purpose of resale in the regular course of business outside this state, the seller may accept the following from the buyer in lieu of a reseller permit:

(a) A properly completed uniform sales and use tax exemption certificate developed by the multistate tax commission; or

(b) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board. Non-resident buyers who are not required to be registered with the department under RCW 82.32.030 (~~are nonetheless eligible to~~) also may apply for and receive a reseller permit. For more information about the application process and eligibility requirements for reseller permits, see WAC 458-20-10201 (~~Application process and eligibility requirements for reseller permits~~)).

(11) **Sales to farmers.** Farmers selling agricultural products only at wholesale are generally not required to register with the department. (See WAC 458-20-101 Tax registration and tax reporting.)

(a) **Registered farmers.** Farmers who are required to be registered with the department must obtain a reseller permit to substantiate wholesale purchases. In lieu of a copy of a reseller permit issued by the department, a seller may accept from a registered farmer (~~that is registered with the department~~) a properly completed Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions as long as that certificate includes the reseller permit number issued by the department to the farmer. See RCW 82.04.470.

(b) **Unregistered farmers.** Farmers not required to be registered with the department may provide, and the seller may accept, any of the following documents to substantiate the wholesale nature of a purchase in lieu of a reseller permit:

(i) A Farmers' Certificate for Wholesale Purchases and Sales Tax Exemptions;

(ii) A properly completed uniform sales and use tax exemption certificate developed by the multistate tax commission; or

(iii) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board.

Farmers who are not required to be registered with the department (~~((are nonetheless eligible to))~~) may apply for and receive a reseller permit. For more information about the application process and eligibility requirements for reseller permits, see WAC 458-20-10201 (~~((Application process and eligibility requirements for reseller permits))~~).

(12) **Purchases for dual purposes.** A buyer normally engaged in both consuming and reselling certain types of tangible personal property, and not able to determine at the time of purchase whether the particular property purchased will be consumed or resold, must purchase according to the general nature of the buyer's business. RCW 82.08.130. If the buyer principally consumes the articles in question, the buyer should not give a reseller permit for any part of the purchase. If the buyer principally resells the articles, the buyer may furnish a reseller permit for the entire purchase. For the purposes of this subsection, the term "principally" means greater than fifty percent.

(a) **Deferred sales tax liability.** If the buyer gives a reseller permit for all purchases and thereafter consumes some of the articles purchased, the buyer must remit the deferred sales tax on the value of the article used to the department. The deferred sales tax liability should be reported under the use tax classification on the buyer's excise tax return.

(i) Buyers making purchases for dual purposes under the provisions of a reseller permit must remit deferred sales tax on all products or services they consume. If the buyer fails to make a good faith effort to remit this tax liability, the penalty for the misuse of a reseller permit will be assessed (~~((This penalty will apply to))~~) on the unremitted portion of the deferred sales tax liability.

A buyer will generally be considered to be making a good faith effort to report its deferred sales tax liability if the buyer discovers a minimum of eighty percent of (~~((the))~~) its deferred sales tax liability within one hundred twenty days of purchase, and remits the full amount of the discovered tax liability (~~((upon))~~) on the next excise tax return. However, the penalty will not be assessed if the buyer does not satisfy (~~((this))~~) the eighty percent threshold (~~((and))~~) but can show by other facts and circumstances that it made a good faith effort to report (~~((the))~~) its tax liability (~~((, the penalty will not be assessed))~~). Likewise, if the department can show by other facts and circumstances that the buyer did not make a good faith effort in remitting its tax liability the penalty will be assessed, even if the eighty percent threshold is satisfied.

(ii) (~~((The following))~~) **Example 4.** This example illustrates the use of a reseller permit for dual-use purchases.

BC Contracting operates (~~((both))~~) as both a prime contractor and speculative builder of residential homes. BC Contracting purchases building materials from seller that are principally incorporated into

projects upon which BC acts as a prime contractor. BC provides seller with a reseller permit and purchases all building materials at wholesale. BC must remit deferred sales tax (~~upon~~) for all building materials incorporated into the speculative projects to be considered to be properly using its reseller permit.

(b) **Tax paid at source deduction.** If the buyer (~~has~~) does not (~~provided~~) provide a reseller permit to the seller but (~~has paid~~) pays retail sales tax on all articles of tangible personal property, and subsequently resells a portion of the articles, the buyer must collect (~~the~~) retail sales tax from its retail customers as provided by law. When reporting these sales on the excise tax return, the buyer may then claim a deduction to recover the sales tax paid for the property resold.

(i) This deduction may be claimed under the retail sales tax classification only. It must be identified as a "taxable amount for tax paid at source" deduction on the deduction detail worksheet, which must be filed with the excise tax return. Failure to properly identify the deduction may result in the disallowance of the deduction. When completing the local sales tax portion of the tax return, the deduction must be computed at the local sales tax rate paid to the seller, and credited to the seller's tax location code.

(ii) (~~The following~~) **Example 5.** This example illustrates the tax paid at source deduction (~~on or after July 1, 2008~~).

A seller is located in Spokane(~~, Washington~~) and purchases equipment parts for dual purposes from a supplier located in Seattle(~~, Washington~~). The supplier ships the parts to Spokane. The seller does not furnish a reseller permit for the purchase, and remits retail sales tax to the supplier at the Spokane tax rate. A portion of these parts are sold and shipped to a customer in Kennewick, with retail sales tax collected at the Kennewick tax rate. The seller must report the amount of the sale to the customer on its excise tax return and compute the local sales tax liability using the Kennewick location code (0302) and rate. The seller (~~would~~) then should claim the tax paid at source deduction for the cost of the parts resold to the customer (~~and compute~~), computing the local sales tax credit using the Spokane location code (3210) and rate.

(iii) The department will allow the claim for deduction (~~will be allowed~~) only if the taxpayer keeps and preserves records in support of the deduction that include the names of the persons from whom it purchased such articles (~~were purchased~~), the dates of the purchases, the types of articles, the amounts of the purchases and the amounts of tax (~~that was~~) it paid.

(iv) Should the buyer resell the articles at wholesale, or under other situations where retail sales tax is not to be collected, the claim for the tax paid at source deduction on a particular excise tax return may result in a credit. In such cases, the department will issue a credit notice that may be used against future tax liabilities. (~~However~~) Alternatively, a taxpayer may request in writing a refund from the department.

(13) **Waiver of penalty for misuse of reseller permits.** The department will waive the penalty imposed for misuse of reseller permits (~~upon finding~~) if it finds that the use of the reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase items or services by a person not entitled to use the reseller permit for that purpose was due to circumstances beyond the control of the buyer or if the reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470

was properly used for purchases for dual purposes and the buyer made a good faith effort to report deferred sales tax. (~~However,~~) The use of a reseller permit to purchase items or services for personal use outside of the business does not qualify for the waiver or cancellation of the penalty. The penalty also will not be waived merely because the buyer was not aware of either the proper use of the reseller permit or the penalty. In all cases the burden of proving the facts is (~~upon~~) on the buyer.

**Example 6.** During a routine audit examination of a computer dealer, (~~it is discovered~~) the department discovers that a reseller permit was obtained from a bookkeeping service. (~~Upon~~) On further investigation it is discovered that the bookkeeping service had no knowledge of the use of the reseller permit, and had made no payment to the computer dealer. The employee who furnished the reseller permit had purchased the computer for personal use, and had personally (~~made payment to~~) paid the computer dealer.

The fifty percent penalty for the misuse of the reseller permit will be waived for the bookkeeping service. The bookkeeping service had no knowledge of the purchase (~~or~~) and unauthorized use of the reseller permit. However, the department will impose the taxes, interest, and the fifty percent penalty for the misuse of the reseller permit against the employee.

(14) **Reseller permit revocation or other invalidation.** A reseller permit is no longer valid if the permit holder's certificate of registration is revoked, the department closes the permit holder's tax reporting account (~~is closed by the department~~), or the permit holder otherwise ceases to engage in business.

(a) **Closing of an account.** A taxpayer who ceases to engage in business will have its tax reporting account closed by the department. The account can be closed per the request of the taxpayer or administratively by the department. The department will administratively close a tax reporting account if a taxpayer has not reported any gross income or filed a return within the last two years. For more information about administrative closure and reopening of taxpayer accounts, see WAC 458-20-101.

(b) **Reseller permit revocation.** The department may revoke a reseller permit of a taxpayer for any of the following reasons:

(i) The taxpayer used or allowed or caused its reseller permit to be used to purchase any item or service without payment of sales tax, (~~but~~) and the taxpayer or other purchaser was not entitled to use the reseller permit for the purchase;

(ii) The department issued the reseller permit to the taxpayer in error;

(iii) The department determines that the taxpayer is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the reseller permit would be in the best interest of collecting taxes due under Title 82 RCW.

(c) **Use of invalidated or revoked reseller permit.** The department will provide written notice to a taxpayer whose reseller permit has been revoked or whose tax reporting account has been administratively closed by the department as discussed in (a) of this subsection (~~will receive notice of the revocation or invalidation in writing~~). The revocation or invalidation is effective on the date specified in the revocation or invalidation notice. Use of a revoked or invalidated permit will result in the fifty percent penalty for improper use of a

reseller permit as discussed in subsection (9) of this ~~(section)~~ rule.

(d) **Reinstatement of reseller permit.** A taxpayer ~~((who wishes))~~ wishing to have its reseller permit reinstated after invalidation or revocation must apply to the department. For more information about the application process for reseller permits, see WAC 458-20-10201 ~~((Application process and eligibility requirements for reseller permits))~~.

(e) **Requests for reinstatement.** The department may refuse to reinstate a reseller permit revoked under (b)(i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a taxpayer whose reseller permit has been revoked under (b)(i) of this subsection reorganizes, the new business resulting from the reorganization is not entitled to receive a reseller permit from the department until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(f) **Business reorganization.** For purposes of this subsection, "reorganize" or "reorganization" means:

(i) The transfer ~~((, however affected,))~~ of a majority of the assets of one business to another business, however affected, where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly;

(ii) A mere change in identity or form of ownership, however affected; or

(iii) The new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(15) **Request for copies.** A person must, upon request of the department, provide ~~((the department with))~~ paper or electronic copies of all reseller permits, or other documentation as authorized in RCW 82.04.470, accepted by that person during the period specified by the department to substantiate wholesale sales. If, instead of the documentation specified in this subsection, the seller has retained the relevant data elements from such permits or other documentation authorized in RCW 82.04.470, as allowed under the streamlined sales and use tax agreement, the seller must provide such data elements to the department.