

State of Washington
Decision Package

Agency: 140 Department of Revenue

Decision Package Code/Title: N8 - E-Commerce Taxation

Budget Period: 2013-15
Budget Level: PL – Performance Level

Recommendation Summary Text:

This decision package provides funds for implementation of proposed legislation which is necessary to provide greater tax certainty and fairness for businesses that are engaged in e-commerce activities.

The proposed legislation would: exempt from retail sales or use tax the purchase of digital automated services for business use; clarify that the developers of prewritten computer software are eligible for the sales and use tax exemptions for manufacturing machinery and equipment (M&E); and provide statutory guidelines for when certain on-line intermediaries and out-of-state sellers must collect the state's retail sales or use tax.

Fiscal Detail

Operating Expenditures	<u>FY2014</u>	<u>FY2015</u>	<u>Total</u>
001-1 General Fund – Basic Account - State	\$0	\$28,500	\$28,500
Total Cost	\$0	\$28,500	\$28,500
Staffing			
FTEs	0.0	0.3	0.2

Package Description:

For e-commerce activities, the state's retail sales and use tax laws:

- Lack equity due to the disparate tax treatment of digital goods and digital automated services purchased for business purposes. The purchase of digital goods for business purposes is exempt from retail sales and use tax while similar purchases of digital automated services are subject to retail sales tax.
- Lack clarity and certainty for developers of prewritten software that no longer provide to the buyer prewritten software contained on a disc or other tangible storage media. Under current law, software developers are eligible for the sales and use tax exemptions for M&E. As developers increasingly deliver prewritten software electronically, the certainty of the sales and use tax exemptions decreases.
- Lack clarity and certainty with respect to the circumstances under which a physical presence is sufficient to require certain online intermediaries and out-of-state sellers to collect Washington's retail sales tax.

This legislative proposal:

- Provides sales and use tax exemptions for digital automated services purchased for business purposes.

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- Clarifies that machinery and equipment used directly in the development of electronically-delivered prewritten computer software qualifies for the M&E exemption when all applicable requirements of the exemption are met.
- Provides greater clarity for certain online intermediaries and out-of-state sellers by providing clear statutory guidelines for determining when they are required to collect and remit Washington's retail sales or use tax.

For Questions Please Contact: Sherry Cave, Budget Manager (360) 725-7451

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This proposal would provide greater tax certainty and fairness for businesses that are engaged in e-commerce activities.

Performance Measure Detail:

Activity:

	Incremental Changes
	<u>FY2014</u> <u>FY2015</u>

No measures submitted with this package.

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

Providing greater tax certainty and fairness for businesses that are engaged in e-commerce activities supports the Department's strategy of "Advocating for fair and consistent tax policy development and supporting Executive and Legislative Branches".

Does this decision package provide essential support to one of the Governor's Results Washington priorities?

Providing greater tax certainty and fairness for taxpayers supports the Governor's priority of "Efficient, Effective & Accountable Government".

What other important connections or impacts are related to this proposal?

N/A

What alternatives were explored by agency, and why was this alternative chosen?

N/A

What are the consequences of adopting or not adopting this package?

Without change to the legislation, these tax laws will continue to be unclear.

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What is the relationship, if any, to the state's capital budget?

N/A

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

This proposal requires amendments to RCW 82.08.020, and 82.12.040, and the enactment of new sections in chapters 82.08, 82.12, and 82.32. This proposal would require rulemaking actions for WAC 458-20-13601, titled: "Digital products", and WAC 458-20-13601, titled: "Manufacturers and processors for hire – Sales and use tax exemption for machinery and equipment".

Expenditure and revenue calculations and assumptions:

The Department will incur start-up costs in FY15. These start-up costs are one-time and include:

- Salary and benefits for 0.3 FTEs,
- Creation of a special notice,
- Updating of web content,
- Creation of a mailing list, and
- Costs of responding to letter ruling requests.

Which costs, savings, and functions are one-time? Which are ongoing? What are the budget impacts on future biennia?

This package is for one-time start-up costs only. On-going costs are requested in the 2015-17 biennium.

Objects of Expenditure Detail

	<u>FY2014</u>	<u>FY2015</u>	<u>Total</u>
A – Salary and Wages	\$0	\$16,400	\$16,400
B - Benefits	\$0	\$4,900	\$4,900
E – Goods and Services	\$0	\$5,200	\$5,200
J - Equipment	\$0	\$2,000	\$2,000
Total	\$0	\$28,500	\$28,500

State of Washington
Decision Package

Agency: 140 Department of Revenue

Decision Package Code/Title: N9 - Administering Unclaimed Property

Budget Period: 2013-15
Budget Level: PL – Performance Level

Recommendation Summary Text:

This decision package provides funding for implementation of proposed legislation for certain administrative changes to the state’s unclaimed property laws, under which the Department administers a program to return unclaimed property to its rightful owners.

The legislation is necessary for increased clarity, fairness, effectiveness and efficiency in the Department’s administration of unclaimed property laws.

Fiscal Detail

Operating Expenditures	<u>FY2014</u>	<u>FY2015</u>	<u>Total</u>
001-1 General Fund – Basic Account – State	\$0	\$89,300	\$89,300
Total Cost	\$0	\$89,300	\$89,300
Staffing			
FTEs	0.0	0.8	0.4

Package Description:

Administration of current unclaimed property laws frequently lacks clarity, fairness, and effectiveness. For example, the willful failure of a holder of unclaimed property to turn the property over to the Department is subject to a penalty that is equal to 100 percent of the value of the property. The standard to prove willfulness is high and the imposition of a 100 percent penalty is viewed as too harsh. As a result, the penalty is rarely imposed.

This proposal would provide greater administrative effectiveness by:

- restructuring penalty provisions,
- clarifying that gift certificates need not be reported as unclaimed property,
- providing statute of limitations provisions for assessments and refunds,
- creating a right to administrative review for assessments and refunds,
- creating a right to appeal to the Thurston County Superior Court an assessment or denial of refund or the return of property, and
- clarifying the Department’s authority to enter into settlement agreements.

For Questions Please Contact: Sherry Cave, Budget Manager (360) 725-7451

Agency: 140 Department of Revenue

Decision Package Code/Title: N9 - Administering Unclaimed Property

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

If approved, these administrative changes will clarify unclaimed property laws and make administration easier.

Performance Measure Detail:

Activity:

	Incremental Changes	
	<u>FY2014</u>	<u>FY2015</u>

No measures submitted with this package.

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

Providing greater clarity for administrating unclaimed property supports the Department's strategy of "Pursuing Simplicity and Efficiencies while Protecting the Agency and Information".

Does this decision package provide essential support to one of the Governor's Results Washington priorities?

Providing greater clarity of administrating unclaimed property supports the Governor's priority of "Efficient, Effective & Accountable Government".

What other important connections or impacts are related to this proposal?

This request will increase clarity, fairness, and effectiveness for taxpayers and the Department.

What alternatives were explored by agency, and why was this alternative chosen?

N/A

What are the consequences of adopting or not adopting this package?

Without change to the legislation, laws will remain unclear and difficult to administer.

What is the relationship, if any, to the state's capital budget?

N/A

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

This proposal requires amendments to RCW 63.29.020, 63.29.140, 63.29.170, 63.29.180, 63.29.190, 63.29.290, 63.29.300, and 63.29.340, and the enactment of four new sections in chapter 63.29 RCW. While no rulemaking would be necessary for existing administrative rules, the proposal would require the adoption of three new rules in chapter 458-XX WAC, titled "Unclaimed Property."

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Decision Package Code/Title: N9 - Administering Unclaimed Property

Expenditure and revenue calculations and assumptions:

The Department will incur start-up costs in FY15. These start-up costs are one-time and include:

- Salary and benefits for 0.8 FTE, and
- Creation of three new administrative rules.

Which costs, savings, and functions are one-time? Which are ongoing? What are the budget impacts on future biennia?

This package is for one-time start-up costs only. On-going costs are requested in the 2015-17 biennium.

Objects of Expenditure Detail

	<u>FY2014</u>	<u>FY2015</u>	<u>Total</u>
A – Salaries & Wages	\$0	\$56,600	\$56,600
B – Benefits	\$0	\$17,000	\$17,000
E – Goods and Services	\$0	\$10,400	\$10,400
J - Equipment	\$0	\$5,300	\$5,300
Total	\$0	\$89,300	\$89,300

State of Washington
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Agency: 140 Department of Revenue

Decision Package Code/Title: RF - Taxation of Recreation and Fitness

Budget Period: 2013-15
Budget Level: PL – Performance Level

Recommendation Summary Text:

This proposed legislation simplifies the taxation of amusement and recreation services, and physical fitness services.

Simplification is necessary because the terms “amusement and recreation services” and “physical fitness services” lack specific statutory definitions and the limited examples provided for amusement and recreation services do not represent the many activities available today.

Simplification will bring greater understanding of the taxability of services provided by nonprofits, local governments, and for-profit businesses, which will lead to greater voluntary compliance.

Fiscal Detail

Operating Expenditures	<u>FY2014</u>	<u>FY2015</u>	<u>Total</u>
001-1 General Fund – Basic Account – State	\$0	\$42,800	\$42,800
Total Cost	\$0	\$42,800	\$42,800
Staffing			
FTEs	0.0	0.4	0.2

Package Description:

Amusement and recreation services and physical fitness services, the variety of which has increased exponentially in recent years, are provided by nonprofit organizations, local governments, and for-profit businesses. There is a high degree of non-compliance by all persons (taxpayers) that provide these services, which has led the Department and taxpayers to expend large amounts of resources to resolve issues on a case-by-case basis.

Simplifying the taxation of these services is necessary to provide greater clarity and transparency in tax law. Proving greater clarity and transparency in the statutes will make it easier for taxpayers to report and pay their taxes.

For Questions Please Contact: Budget Manager, Sherry Cave (360) 725-7451

Agency: 140 Department of Revenue

Decision Package Code/Title: RF - Taxation of Recreation and Fitness

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

Simplification will bring greater understanding of the taxability of services provided by nonprofits, local governments, and for-profit businesses, which will lead to greater voluntary compliance.

Performance Measure Detail:

Activity:

Incremental Changes	
<u>FY2014</u>	<u>FY2015</u>

No measures submitted for this package.

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

Providing greater clarity for taxpayers supports the Department's strategy of "Promoting Correct Reporting and Increasing Voluntary Compliance".

Does this decision package provide essential support to one of the Governor's Results Washington priorities?

Providing greater clarity for taxpayers supports the Governor's priority of "Efficient, Effective & Accountable Government".

What other important connections or impacts are related to this proposal?

This request will increase clarity, fairness, and effectiveness for taxpayers and the Department.

What alternatives were explored by agency, and why was this alternative chosen?

N/A

What are the consequences of adopting or not adopting this package?

Without change to the legislation, laws will remain unclear and difficult to administer.

What is the relationship, if any, to the state's capital budget?

N/A

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

This proposal requires amendments to RCW 82.04.050, 82.04.060, 82.04.190, 82.08.0291, 82.12.010, 82.12.020, 82.12.02595, 82.12.035, 82.12.040, 82.12.860, 82.32.087, and the repeal of RCW 82.12.02917. This proposal would require rulemaking actions for WAC 458-20-167, 458-20-189, and 458-20-183.

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Agency: 140 Department of Revenue

Decision Package Code/Title: RF - Taxation of Recreation and Fitness

Expenditure and revenue calculations and assumptions:

The Department will incur start-up costs in FY15. These start-up costs are one-time and include:

- Salary and benefits for 0.4 FTEs,
- Programming and testing system changes, and
- Amendment of five advisories and three administrative rules.

Which costs, savings, and functions are one-time? Which are ongoing? What are the budget impacts on future biennia?

All costs are one-time only.

Objects of Expenditure Detail

	<u>FY2014</u>	<u>FY2015</u>	<u>Total</u>
A – Salary & Wages	\$0	\$24,500	\$24,500
B - Benefits	\$0	\$7,400	\$7,400
E – Goods and Services	\$0	\$8,500	\$8,500
J - Equipment	\$0	\$2,400	\$2,400
Total	\$0	\$42,800	\$42,800