

New Rules Subject Out-of-State Businesses to Washington B&O and Sales Tax

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Effective September 1, 2015, out-of-state wholesalers and retailers may now be subject to Washington Business and Occupation (B&O) Tax or sales and use tax. Two new standards create a filing requirement even if the business has no physical presence in the state of Washington.

First, out-of-state businesses making wholesale sales into Washington will be liable for wholesaling B&O tax on sales delivered into the state for the current year if they meet any of the following thresholds during the prior calendar year in Washington:

- More than \$267,000 in gross income
- More than \$53,000 of payroll
- More than \$53,000 of property
- At least 25 percent of total property, payroll or income

Second, a click-through nexus standard has been adopted for retailing B&O tax and sales tax purposes. Thus, an out-of-state business making retail sales into Washington is presumed to be liable for both retailing B&O tax and retail sales tax purposes if the business:

- Enters into agreements with Washington residents and pays a commission or other consideration for referrals through a website link or similar, and
- Has more than \$10,000 in sales in Washington during the prior calendar year due to these agreements.

Taxpayers should note that a business with no employees, property or physical location in Washington will still be presumed to have nexus under these new economic standards. As the standards are based on prior year sales information, every company has the ability now to measure the factors and assess whether nexus exists.

To be in compliance, businesses must report and remit B&O and sales tax liabilities by January 1, or face late filing penalties up to 25 percent.

About BPM's Corporate Tax Group

BPM's Corporate Tax Group provides comprehensive tax strategies to businesses of all sizes and kinds. Our group of more than 110 tax professionals across six San Francisco Bay Area offices counsel corporations with tax analysis and filings, controversies (e.g. IRS audits), and the preparation of single entity and consolidated tax returns.

Whether you are seeking simple tax compliance work or an integrated tax plan for your business, we are here to help.