

WAC 458-20-104 Small business tax relief based on income of business. (1) **Introduction.** This rule explains the business and occupation (B&O) tax credit for small businesses provided by RCW 82.04.4451. This credit is commonly referred to as the small business B&O tax credit or small business credit (SBC). The amount of small business B&O tax credit available on a tax return can increase or decrease, depending on the reporting frequency of the account and the net B&O tax liability for that return. This rule also explains the public utility tax income exemption provided by RCW 82.16.040. The public utility tax exemption is a fixed amount, or threshold, based on the reporting frequency assigned to the account. Readers should refer to WAC 458-20-22801 (Tax reporting frequency—Forms) for an explanation of how the department of revenue (department) assigns a particular reporting frequency to each account. Readers may also want to refer to WAC 458-20-101 for an explanation of Washington's tax registration and tax reporting requirements.

This rule provides examples that identify a number of facts and then state a conclusion regarding the applicability of the income exemption for the public utility tax or small business B&O tax credit. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(2) **The public utility tax income exemption.** Persons subject to public utility tax (PUT) are exempt from payment of this tax for any reporting period in which the gross taxable amount reported under the combined total of all public utility tax classifications does not equal or exceed the maximum exemption for the assigned reporting period. Per RCW 82.16.040, the public utility tax exemption amounts are:

for taxpayers reporting monthly.....	\$2,000 per month
for taxpayers reporting quarterly.....	\$6,000 per quarter
for taxpayers reporting annually.....	\$24,000 per annum

(a) **What if the taxable income equals or exceeds the maximum exemption?** If the taxable income for a reporting period equals or exceeds the maximum exemption, tax must be remitted on the full taxable amount.

(b) **How does the exemption apply if a business does not operate for the entire tax reporting period?** The public utility tax maximum exemptions apply to the entire tax reporting period, even though the business may not have operated during the entire period.

(c) **Do taxable amounts for B&O tax or other taxes affect this exemption?** The public utility tax exemption is not affected by taxable amounts reported in the B&O tax section or any of the other tax sections of the tax return.

(d) **Example - How is the public utility tax exemption applied?** Taxpayer registers with the department and is assigned a quarterly tax reporting frequency. Taxpayer begins business activities on February 1st. During the two months of the first quarter that the taxpayer is in business, taxpayer's public utility gross income is \$7,000. After deductions provided by chapter 82.16 RCW (Public utility tax) are computed, the total taxable amount is \$5,000. In this case, the taxpayer does not owe any public utility tax because the taxable amount of \$5,000 is less than the \$6,000 exemption threshold for quarterly taxpayers. The fact that the taxpayer was in business during only two

months out of the three months in the quarter has no effect on the threshold amount. However, if there were no deductions available to the taxpayer, the taxable amount would have been \$7,000. The public utility tax would then have been due on the full taxable amount of \$7,000.

(3) **The small business B&O tax credit.** Persons subject to the B&O tax may be eligible to claim a small business B&O tax credit against the amount of B&O tax otherwise due. The small business B&O tax credit operates completely independent of the public utility tax exemption described above in subsection (2) of this rule. RCW 82.04.4451 authorizes the department to create a tax credit table for use by all taxpayers when determining the amount of their small business B&O tax credit. Taxpayers must use the tax credit table to determine the appropriate amount of their small business B&O tax credit. A tax credit table for each of the monthly, quarterly, and annual reporting frequencies can be found on the department's internet site at dor.wa.gov.

The statute provides that taxpayers who use the tables will not owe any more tax than if they used the statutory credit formula to determine the amount of the credit. For taxpayers that file electronically, the department will automatically calculate the small business credit when the taxpayer completes the online return.

Effective January 1, 2023, section 1, chapter 295, Laws of 2022 amended RCW 82.04.4451. Prior to that amendment the small business credit was calculated at a maximum of \$70 multiplied by the number of months in the reporting period for all eligible taxpayers. As a result of the amendment, taxpayers that report at least 50 percent (i.e., 50 percent or greater) of their total B&O taxable amount under RCW 82.04.255 (real estate brokers), RCW 82.04.290 (2)(a) (service and other activities), and RCW 82.04.285 (contests of chance) have their maximum credit increased to \$160 multiplied by the number of months in the reporting period. (A few examples of businesses that generally have taxable amounts to report under RCW 82.04.290 (2)(a) are for-profit hospitals, for-profit research and development, accountants, attorneys, dentists, janitors, and landscape architects. Please see WAC 458-20-224, Service and other business activities for information and more examples of who should report under the service and other classification of the B&O tax.)

For taxpayers that do not report at least 50 percent of their B&O taxable amount under RCW 82.04.255, 82.04.290, and 82.04.285, prior to the amendment the small business credit was calculated at a maximum of \$35 multiplied by the number of months in the reporting period. As a result of the amendment, the maximum credit increased to \$55 multiplied by the number of months in the reporting period.

(a) **How is the credit applied if a business does not operate during the entire tax reporting period?** The small business B&O tax credit applies to the entire reporting period, even though the business may not have been operating during the entire period.

(b) **Can a husband and wife or partners in a state registered domestic partnership both take the credit?** Spouses or state registered domestic partners operating distinct and separate businesses are each eligible for the small business B&O tax credit. For both spouses or both domestic partners to qualify, each must have a separate tax reporting number and file his or her own business tax returns.

(c) **How do I determine the amount of the credit?** Taxpayers eligible for the small business B&O tax credit must follow the steps outlined in subsection (5) of this rule to determine the amount of credit available. Taxpayers who have other B&O tax credits to apply on a tax

return, in addition to the small business B&O tax credit, may use the multiple B&O tax credit worksheet in subsection (4) of this rule before determining the amount of small business B&O tax credit available.

(d) **Can I carryover the small business B&O tax credit to future tax reporting periods?** Use of the small business B&O tax credit may not result in a B&O tax liability of less than zero, and thus there will be no unused credit.

(e) **Do I have to report and pay retail sales tax even if I do not owe any B&O tax?** Persons making retail sales must collect and pay all applicable retail sales taxes even if B&O tax is not due. There is no comparable retail sales tax exemption.

(4) **Multiple business and occupation tax credit worksheet.** The small business B&O tax credit should be computed after claiming any other B&O tax credits available under Title 82 RCW (Excise taxes). Examples of other B&O tax credits to be taken before computing the small business B&O tax credit include the multiple activities tax credit and commute trip reduction credit. The following multiple B&O tax credit worksheet describes the process taxpayers must follow to apply credits in the appropriate order. Refer to subsection (6) of this rule for an example illustrating the use of the multiple B&O tax credit worksheet.

MULTIPLE B&O TAX CREDIT WORKSHEET

- | | | |
|----|--|----------|
| 1. | Determine the total Business and Occupation (B&O) tax due from the B&O section of your excise tax return. | \$ _____ |
| 2. | Add together the credit amounts taken for: | |
| | Multiple Activities Tax Credit from Schedule C (if applicable). | \$ _____ |
| | (Add any other B&O tax credits from Title 82 RCW that will be applied to this return period.) | \$ _____ |
| | Total (Enter 0 if none of these credits are being taken.) | \$ _____ |
| 3. | Subtract line 2 from line 1. This is the total B&O tax allowable for the Small Business Credit. | \$ _____ |
| 4. | Find the specific tax credit table (Table 1 or Table 2) appropriate for the business activities and B&O taxable amounts on your excise tax return. Next, find the tax credit table which matches the reporting frequency assigned to the account. Then find the range of amounts which includes your total B&O tax due (see line three above). | |
| 5. | Read across to the next column. This is the amount of the Small Business Credit to be used on the excise tax return. | \$ _____ |

(5) **Using the tax credit table to determine your small business B&O tax credit.** The following steps explain how to use the small business B&O tax credit table:

(a) **Step one.** Determine the total B&O tax amount due from the excise tax return. This amount will normally be the total of the tax amounts due calculated for each classification in the B&O tax section of the excise tax return. However, if additional B&O tax credits will be taken on the return, refer to subsection (4) of this rule and the multiple B&O tax credit worksheet before going to step two.

(b) **Step two.** Find the B&O taxable amounts on the return reported under RCW 82.04.255 (real estate brokers), RCW 82.04.290 (2)(a) (service and other activities), and RCW 82.04.285 (contests of chance) then add them together. Divide that sum result by the total amount of all B&O taxable amounts reported on the return. If the result indicates 50 percent or greater of the total of all B&O taxable amounts came from activities reported under RCW 82.04.255, 82.04.290 (2)(a), and 82.04.285 combined, use Table 1 of the small business B&O tax credit table. If the result indicates less than 50 percent of the total of

all B&O taxable amounts came from activities reported under RCW 82.04.255, 82.04.290 (2)(a), and 82.04.285 combined, use Table 2 of the small business B&O tax credit table.

(c) **Step three.** Find the small business B&O tax credit table that matches the assigned reporting frequency, monthly, quarterly, or annual.

(d) **Step four.** Find the "If your net B&O tax is" column of the tax credit table and come down the column until you find the range of amounts which includes the total B&O tax due figure obtained from the excise tax return or multiple B&O tax credit worksheet.

(e) **Step five.** Read across to the "Your SBC is" column. The figure shown is the amount of the small business B&O tax credit that can be claimed on the "Small Business B&O Tax Credit" line in the "Credits" section of the excise tax return.

(6) **Examples - Using the "Multiple B&O Tax Credit Worksheet" and the tax credit tables.**

(a) **Using the "Multiple B&O Tax Credit Worksheet."** Assume that ABC reports quarterly. This quarter, ABC reports \$190 under the wholesaling classification and \$70 under the manufacturing classification for a total B&O tax liability of \$260. ABC completes Schedule C, and determines it is entitled to a multiple activities tax credit (MATC) of \$70. Using the multiple B&O tax credit worksheet, ABC enters \$260 on line one, enters \$70 on line two, and enters \$190 on line three (line two subtracted from line one). Line three, \$190 is the total B&O tax. ABC will use this amount to determine whether it is eligible for a small business B&O tax credit.

(b) **Using the small business B&O tax credit tables.** Assume the facts are the same as in the previous example in subsection (6)(a) of this rule. After completing the multiple B&O tax credit worksheet, ABC has \$190 of B&O tax liability left for potential application of the small business B&O tax credit. ABC does not have any business activity taxable under RCW 82.04.255 (real estate brokers), RCW 82.04.290 (2)(a) (service and other activities), or RCW 82.04.285 (contests of chance), so the ratio of those combined taxable amounts compared to the total of all B&O taxable amounts on the return is not 50 percent or greater. ABC will refer to Table 2 of the quarterly small business B&O tax credit table to find the "If your net B&O tax is" column. Following down that column, ABC finds the tax range of at least \$190 but less than \$195 and follows the row to the "Your SBC is" column on the right, which indicates a credit in the amount of \$140. Before calculating the total amount of tax due for the return, ABC enters its small business B&O tax credit of \$140 in the "Credits" section of the return.

For taxpayers that file electronically, the department will automatically calculate the small business credit when the taxpayer completes the online return.

[Statutory Authority: RCW 82.32.045, 82.04.4451, and 82.01.060. WSR 23-08-081, § 458-20-104, filed 4/5/23, effective 5/6/23. Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 10-23-058, § 458-20-104, filed 11/12/10, effective 12/13/10. Statutory Authority: 2009 c 521. WSR 10-09-050, § 458-20-104, filed 4/15/10, effective 5/16/10. Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 04-14-052, § 458-20-104, filed 6/30/04, effective 7/31/04. Statutory Authority: RCW 82.32.300. WSR 98-16-019, § 458-20-104, filed 7/27/98, effective 8/27/98; WSR 97-08-050, § 458-20-104, filed 3/31/97, effective 5/1/97; WSR 95-07-088, § 458-20-104, filed 3/17/95, effective 4/17/95; WSR

83-07-034 (Order ET 83-17), § 458-20-104, filed 3/15/83; Order ET 70-3, § 458-20-104 (Rule 104), filed 5/29/70, effective 7/1/70.]