

# Washington's Multiple Points of Use (MPU) Exemption

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# Agenda

- Sales and Use Tax Considerations
- Washington's MPU Exemption
- Benefits
- Challenges
- Into the Now and Future

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# Sales and Use Tax Considerations

- Sales tax – apportionment not required. [\*Oklahoma Tax Comm'n v. Jefferson Lines, Inc., 514 U.S. 175 \(1995\)\*](#)
- Use tax considerations. [\*Credits: Cure for Use Tax Apportionment, Richard Cram, Tax Notes, September 16, 2024\*](#)

# Washington's MPU Exemption

- **Exemption:** Sellers with eligible transactions receive the benefit of an upfront sales tax exemption, while the purchaser must remit an apportioned use tax
- **Elements of the exemption:**
  - MPU eligible product that is,
  - Concurrently available for use inside and outside Washington

[RCW 82.08.0208](#) and [RCW 82.12.0208](#)

# MPU Eligible Products

- **Digital goods**
  - Sounds, images, data, facts, or information, or any combination thereof, transferred electronically, including, but not limited to, specified digital products and other products transferred electronically
- **Digital codes**
  - A code that provides a purchaser with the right to obtain one or more digital products, if all of the digital products to be obtained through the use of the code have the same sales and use tax treatment
- **Digital automated services**
  - Any service transferred electronically that uses one or more software applications
- **Prewritten computer software**
  - Computer software ( set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task), including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser
- **Remote access software**
  - Access to and use of prewritten computer software, where possession of the software is maintained by the seller or a third party

[RCW 82.04.192](#), [RCW 82.04.215](#), and [RCW 82.04.050](#).

# Concurrently Available For Use

- When is a product concurrently available for use within and outside Washington?
  - “Concurrently available for use within and outside this state” means that employees or other agents of the taxpayer may use the products simultaneously at one or more locations within this state and one or more locations outside this state
  - “User” means an employee or agent of the taxpayer who is authorized by the taxpayer to use the product in the performance of their duties as an employee or other agent of the taxpayer
  - Not for personal use

RCW 82.08.0208 and RCW 82.12.0208

# Concurrently Available for Use – Cont.

- **Apportionment:**

- Apportion the amount of tax due this state based on users in this state compared to users everywhere

- **Anti-distortion provision:**

- The department may authorize or require an alternative method of apportionment supported by the taxpayer's records that fairly reflects the proportion of in-state to out-of-state use by the taxpayer.

RCW 82.08.0208 and RCW 82.12.0208

# Bundled Transactions

- Bundled transactions are generally subject to retail sales tax
- Bundled transactions are the sale of two or more distinct and identifiable products, sold for one nonitemized price, where the price does not vary based on the selection of products
- Bundled transactions are subject to retail sales tax if any product is generally subject to retail sale tax
- The MPU exemption applies to bundled transactions if there are no other retail sales taxable products in the exemption

[RCW 82.08.190](#) and [RCW 82.08.195](#).

# Benefits

- Results in the taxation of use clearly attributable to Washington
- Responsive to the evolving business and technological landscape
- Promotes trust in tax system and relatedly voluntary compliance
- Reduces the risk of tax-based distortion
- Economic development considerations

# Challenges

- Based on experience in administering the MPU exemption...
  - Documentation
  - Defining “user”
  - Addressing complex and varied transactions
  - Refunds
  - Apportionment of bundled transactions
  - Credits

# Challenges – Cont.

- Credits
  - A credit is allowed against the taxes imposed by this chapter upon the use in this state in the amount that the present user thereof or his or her bailor or donor has paid a legally imposed retail sales or use tax with respect to such property item to any other state, possession, territory, or commonwealth of the United States, any political subdivision thereof, the District of Columbia, and any foreign country or political subdivision thereof

[RCW 82.12.035.](#)

# Into the Now and Future

- [Engrossed Substitute Senate Bill 5814 \(2025\)](#):
  - The sale of advertising services are retail sales services subject to retail sales effective Oct. 1, 2024
    - Difficulties in sourcing advertising services
    - Applicability and value of the MPU exemption
    - “User” considerations

Thank  
you

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