



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

AUG 10, 2015

## Dairy product manufacturers' B&O tax deductions extended – Update on tax reporting requirements

The business and occupation (B&O) tax deductions provided to dairy product manufacturers on certain manufacturing and selling activities has been extended through June 30, 2025 ([RCW 82.04.4268](#)).

To claim the tax preferences, manufacturers must report their gross income from dairy product manufacturing activities and then claim a deduction for the amounts attributable to qualified activities not subject to the B&O tax.

**“Dairy products”** means:

(A) Products, not including any marijuana-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than seventy percent dairy products that qualify under (A), measured by weight or volume (effective October 1, 2013).

### What the deductions provide

RCW 82.04.4268 provides B&O tax deductions for the following tax classifications and activities:

- Manufacturing B&O tax - value of products sold by dairy product manufacturers;
- Wholesaling and retailing B&O tax - products manufactured and sold by the manufacturer at wholesale or retail to a customer that transports the product outside this state in the normal course of business; and
- Wholesaling B&O tax - products manufactured and sold by the manufacturer at wholesale to a customer who uses such dairy products as an ingredient or component in the manufacturing of another dairy product in Washington (effective October 1, 2013).

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These deductions expire July 1, 2025. When they expire, they will be replaced with a reduced B&O tax rate of 0.138 percent ([RCW 82.04.260 \(1\)](#)).

## How to complete the excise tax return

Dairy product manufacturers must report their income and then take a deduction for the amounts not subject to tax. There is no application required for claiming these deductions. However, manufacturers are required to file all returns and surveys through the Department's E-file or My Account system.

- Income from manufacturing of dairy product is reported under the "Manufacturing of Dairy Products" B&O tax classification. A deduction should be claimed for the same amount under "Exempt Manufactured Products."
- All wholesale sales should be reported under the Wholesaling B&O tax classification. A deduction may then be taken for the value of products manufactured and sold by the manufacturer at wholesale to a buyer who either:
  - transports the product outside the state in the normal course of business. This deduction is claimed under "Dairy, Fresh Fruit/Vegetable, and Seafood Mfd Products for Transport Out of State;" or
  - uses such dairy products as an ingredient or component in the manufacturing of another dairy product in Washington. This deduction is claimed under "Dairy product used in mfg of dairy products."
- All retail sales should be reported under the Retailing B&O tax classification. A deduction may then be taken for the value of products manufactured and sold by the manufacturer at retail to a buyer that transports the product outside the state in the normal course of business. This deduction is claimed under "Dairy and Seafood Mfd Products for Transport Out of State."
- A deduction is allowed under the Wholesaling and the Retailing B&O tax classifications for products delivered to customers outside the state. The deduction is claimed under "Interstate and Foreign Sales."
- Retail sales must also be reported under the Retail Sales tax section. Generally, sales of dairy products are exempt from sales tax under "Exempt Food Sales." For more information, see [WAC 458-20-244](#).

If the business manufactures other products not classified as "dairy products," that income should be reported under the Manufacturing B&O tax classification or another manufacturing classification, if appropriate.

## Documenting the deduction for product transported outside the state by the buyer

A manufacturer taking a wholesale or retail deduction for product transported outside Washington by the buyer must keep and preserve records for up to five years. Those records must establish that the goods were transported by the purchaser in the

ordinary course of business out of this state. A letter from the buyer stating this fact is adequate documentation. For wholesale sales, the buyer must also supply the seller with a copy of the buyer's reseller permit.

## **Documenting the deduction for product sold to a buyer to be used as ingredient in another dairy product**

A manufacturer taking a wholesale deduction for product sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product in this state must keep and preserve records for up to five years. A letter from the buyer stating that the product was purchased as an ingredient or component in the manufacturing of a dairy product in this state is adequate documentation. The buyer must also supply the seller with a copy of the buyer's reseller permit.

## **Annual Tax Incentive Survey required**

All businesses claiming the deductions are required to electronically file an Annual Tax Incentive Survey by April 30th of the year following the year the exemption is claimed ([RCW 82.32.585](#)). For example, if you claim B&O tax deductions in 2015, you must file an annual survey by April 30, 2016.

To file a survey, go to our website at [dor.wa.gov](http://dor.wa.gov) and login to My Account. Once you're logged in, click on Credits & Tax Incentives, then File Tax Incentive Survey/Report and complete the survey.

## **Failure to file Annual Tax Incentive Survey results in tax due**

If you don't file the survey as required, you will be assessed B&O tax at the rate of 0.484 percent on the deductions claimed under manufacturing and/or wholesaling. If you claimed deductions under retailing, you will also be assessed B&O tax at the rate of 0.471 percent.

## **Need assistance?**

- Have general tax questions, call our Telephone Information Center at 360-705-6705.
- Have questions regarding the Annual Tax Incentive Survey, call 360-902-7167.
- For bill information, see Engrossed Substitute Senate Bill ([ESSB 6057, Part II](#)), Chapter 6, Laws of 2015.