

Gross Receipts:

Washington DOR Posts Guidance Explaining that Patent Income May Be Subject to B&O Tax

Tax Topics: Patent income may be taxable, Wash. Dept. of Rev. (11/15/23). In recently posted “tax topic” guidance, the Washington Department of Revenue (Department) explains that income received from patents may be subject to Washington’s business and occupation (B&O) tax, and the taxability of the income depends on whether the amounts are business or nonbusiness income. According to the guidance, income from patent royalties and patent sales is subject to B&O tax when received as a regular part of business activities, and three examples of taxable patent income include:

URL: <https://dor.wa.gov/forms-publications/publications-subject/tax-topics/patent-income-may-be-taxable>

- Patent royalties earned by an inventor for the right to use a patented process or to manufacture a patented item (*i.e.*, taxed under the royalties B&O tax classification);
- Income from the sale of a patent by an inventor (*i.e.*, taxed under the “services and other activities” B&O tax classification); and
- Patent royalties received by an investment firm that owns patents and other intangible assets for investment purposes (*i.e.*, taxed under the royalties B&O tax classification).

In these three instances, the Department explains that the patent income is a regular part of the business operations because it is relied on to sustain the business. Furthermore, the Department notes that income subject to B&O tax under either the royalties or services and other activities classification is apportionable. The Department also explains that royalty income earned by a person who purchased the patent for pure speculation along with other investments generally would *not* be subject to B&O tax on such patent income if the person has no business operations related to the patent. Please contact us with any questions.

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