

## Gross Receipts:

### Washington: Distributor Has Substantial Nexus by Sending Representatives and Offering Repair Services

*Determination No. 21-0211*, Wash. Dept. of Rev. (9/9/24). A ruling issued by the Administrative Review and Hearings Division of the Washington Department of Revenue (Division) held that an out-of-state distributor established substantial nexus for Washington business and occupation (B&O) tax purposes by sending representatives each year to visit Washington retailers that sold the distributor's products and offering warranty repair services through those retailers. In the ruling, the distributor did not dispute that it had B&O tax economic nexus, but it did dispute the establishment of physical presence nexus. Among its arguments against physical presence nexus with Washington, the distributor claimed that it did not have sufficient control over the Washington retailers to create an agency relationship. However, the Division noted that neither Rev. Code of Wash. section 82.04.067 nor "Rule 193(102)" requires an agency relationship – explaining that it is the activity of an agent or representative accepting repairs on a seller's behalf that helps establish and maintain the seller's in-state market. Accordingly, the Division concluded that the amount of control the distributor wielded over the Washington retailers was immaterial – noting that, in this case, the distributor's advertisement of the availability of repair and warranty return services at Washington retailers' locations on its website implies a representative relationship with the Washington retailers, and the repair and warranty return activities the retailers performed for the distributor were significantly associated with the distributor's ability to establish and maintain a market in Washington. Please contact us with any questions.

**URL:** <https://dor.wa.gov/sites/default/files/2024-09/43WTD058.pdf>

— Robert Wood (Seattle)  
Principal  
Deloitte Tax LLP  
robwood@deloitte.com

Myles Brenner (Seattle)  
Senior Manager  
Deloitte Tax LLP  
mybrenner@deloitte.com

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