



STATE OF WASHINGTON  
DEPARTMENT OF REVENUE

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January 10, 2024  
Letter ID: L0025210139  
Account ID: 601-307-764  
Account Type: Excise Tax

RE: PIONEER TITLE CO OF LINCOLN COUNTY  
Registration No. 601-307-764  
Docket No. 5586539

## Division Response to Your Petition

The Administrative Review and Hearings Division forwarded a copy of your petition for review to the Department's Audit Division(s). The Audit Division(s) has submitted the following response to your petition, attached to this letter.

You are not required to reply to this document. However, if you would like to reply in writing, you must do so within 30 days of the date of this letter. Please send your reply to the Administrative Review and Hearings Division at the address or email below.

The Tax Review Officer assigned to your case will review your petition, this division response, any other timely replies, and any information provided in a hearing, if applicable. The Tax Review Officer will also research the applicable statutes, rules, case law, and other relevant information. After completing the review, the Tax Review Officer will issue a written determination resolving your case. You will receive a copy of the written determination.

For more information, visit [dor.wa.gov/reviews](http://dor.wa.gov/reviews), see WAC 458-20-100, or contact the Administrative Review and Hearings Division with questions about the administrative review process at:

Administrative Review and Hearings Division  
Department of Revenue  
PO Box 47460  
Olympia WA 98504-7460  
Phone: (360) 534-1335  
Fax: (360) 534-1340  
Email: [DORARHAdmin@dor.wa.gov](mailto:DORARHAdmin@dor.wa.gov)

To request this document in an alternate format, please complete the form [dor.wa.gov/AccessibilityRequest](http://dor.wa.gov/AccessibilityRequest) or call 360-705-6705. Teletype (TTY) users please dial 711.

Audit Division - Procedures and Administration  
PO Box 47474 Olympia, WA 98504-7474  
[dor.wa.gov](http://dor.wa.gov) Phone (360) 647-7706



**STATE OF WASHINGTON  
DEPARTMENT OF REVENUE**

January 2, 2024

Sent via email: [DORARHDAdmin@dor.wa.gov](mailto:DORARHDAdmin@dor.wa.gov)

TO: Administrative Review and Hearings Division  
State of Washington  
Department of Revenue  
PO Box 47460  
Olympia WA 98504-7460

FROM: Steve Reitcheck, Revenue Auditor  
Department of Revenue  
PO Box 47474  
Olympia WA 98504  
Phone No. (208)343-0538, Email: SteveRe@dor.wa.gov

Re: Pioneer Title Company of Washington  
Registration No. 601 307 764  
Document No. L0024687014/Audit No. A19360  
Audit Period: January 1, 2018 through December 31, 2021  
ARHD Docket No. 5586539

**In response to the petition made by the above named taxpayer**

**Synopsis:**

Pioneer Title Company of Washington, through offices in Davenport and Pullman, provides title and escrow products, long-term escrows, contract purchasing, foreclosure services, and 1031 tax-deferred exchanges.

**Issue on Review:**

- 1. Are Pioneer Title Co. of Washington (Pioneer) customers subject to sales tax and is Pioneer subject to retailing business and occupation (B&O) on customers' document recording fees/taxes advanced by Pioneer and paid to county auditors?**

**Operating Division's Response to Issue No. 1** Is income from customers relating to document recording fees paid to county auditors by Pioneer Title properly subject to Retailing B&O and Retail Sales tax as part of their real estate, title, and escrow services?

**Factual Background**

As part of the real-estate closing process, documents related to the transaction are filed with the county auditor. Fees related to the filing of these documents must be paid to the county auditor

at the time of filing. During the audit, Pioneer explained title and escrow related filings generated during the day are bundled and delivered to the county auditor with a single company check to satisfy the fees related with the filings. The filing of these documents establishes legal ownership of the property and lien on the property for the buyer's lender. Pioneer's position is they are acting as an agent for the buyer and/or seller and income from this activity should be excluded under WAC 458-20-111.

### **Application of Facts to Law/Discussion**

Per WAC 458-20-156, gross receipts from fees or premiums charged to consumers for abstract, title insurance and escrow services is taxable under the Retailing B&O and Retail Sales tax classification.

The B&O tax is imposed for the act or privilege of engaging in business activities in this state. "Gross income of the business" is defined in RCW 82.04.080(1) as: [T]he value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, . . . fees, . . . and other emoluments however designated, all without any deduction on account of the cost of, . . . labor costs, interest, . . . or any other expense whatsoever paid or accrued . . . RCW 82.04.080(1)

In limited circumstances, taxpayers may exclude from gross income of the business, advances and reimbursements received from a customer or client, when the taxpayer holds the money or credit as an agent to make a payment on behalf of the customer or client. Such payments are addressed in WAC 458-20-111 (Rule 111), the Department's administrative rule that addresses advances and reimbursements. Rule 111 sets forth descriptions, and certain requirements for payments to be considered advances or reimbursements, as follows:

The word "advance" as used herein, means money or credits received by a taxpayer from a customer or client with which the taxpayer is to pay costs or fees for the customer or client.

The word "reimbursement" as used herein, means money or credits received from a customer or client to repay the taxpayer for money or credits expended by the taxpayer in payment of costs or fees for the client.

The words "advance" and "reimbursement" apply only when the customer or client alone is liable for the payment of the fees or costs and when the taxpayer making the payment has no personal liability therefor, either primarily or secondarily, other than as agent for the customer or client.

Nothing provided by Pioneer Title during the audit supports their position that they are acting simply as an agent for their customers. In fact, they made it clear that filing the documents was a vital part of the services they provide and their combining daily filings into one package paid for by one company check ensured timely and accurate recording by the governmental agency.

The county clerks accepting the documents from a Pioneer Title employee also looks to that employee for payment of the associated fees. As such, these fees are part of the abstract, title insurance, and escrow services provided by Pioneer and income from these services are subject to the Retailing B&O and Retail Sales tax.

**Other Comments:**

Paragraph three in Pioneer's Review Petition under 'Arguments' mentions the assessment includes recording fees/taxes that were not advanced in connection with the provisions of an escrow service. This issue was not mentioned during the audit and Audit is unable to provide any response.

Cc: Jesse Hamilton ([jesse@pioneer1031.com](mailto:jesse@pioneer1031.com))  
Robert Mahon ([RMahon@perkinscoie.com](mailto:RMahon@perkinscoie.com))  
Nathian Melton, Field Audit Manager