

Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3187.2014

Issue Date: , 2014

THIS DRAFT ETA IS TO BE USED SOLELY FOR DISCUSSION PURPOSES. UNDER NO CIRCUMSTANCES IS THIS DRAFT ETA TO BE USED TO DETERMINE TAX LIABILITY OR ELIBILITY FOR A TAX DEDUCTION, EXEMPTION, OR CREDIT.

Specified Tax Deferrals And Operationally Complete

Purpose

This Excise Tax Advisory (ETA) clarifies what “operationally complete” means when used in the following Chapters of the Revised Code of Washington (RCW):

- Chapter 82.60 RCW (Tax deferrals for investment projects in rural counties);
- Chapter 82.63 RCW (Tax deferrals for high technology businesses);
- Chapter 82.74 RCW (Tax deferrals for fruit and vegetable businesses); and
- Chapter 82.75 RCW (Tax deferrals for biotechnology and medical device manufacturing businesses).

Background

Washington State law provides the retail sales and use tax deferrals referenced above for businesses engaged in certain qualifying activities that file the appropriate application. Taxpayers receive a deferral for retail sales and use tax once a project is operationally complete. After operational completion, if the investment project meets all of the appropriate statutory conditions during the applicable tax deferral period (e.g. seven year deferral period¹), then retail sales and use tax need not be repaid. A taxpayer receiving a deferral must notify the Department when the investment project is operationally complete. The Department, after receipt of notice, will certify that the project is operationally complete.

¹ This seven year period applies for all the tax deferral statutes referenced except for chapter 82.60 RCW.

To request this document in an alternate format, visit <http://dor.wa.gov> and click on “contact us” or call 1-800-647-7706. Teletype (TTY) users may use the Washington Relay Service by calling 711.

General tax information is available on our website at dor.wa.gov.

Questions? Complete the online form at dor.wa.gov/communications or call 800-647-7706. If you want a binding ruling from the Department, complete the form at dor.wa.gov/rulings.

**Definition of
Operationally
Complete**

With respect to the tax deferrals referenced in this ETA, a project is “operationally complete” when the investment project is capable of being used for its intended purpose as described in the deferral application.

Operationally complete is not the date the Department issues a certification that an investment project is operationally complete. Rather, operationally complete is the date, as subsequently certified by the Department, when the investment project is able to be used for its intended purpose.

Example 1:

A deferral application states that a manufacturing plant building is being constructed. The operationally complete date is the date, as certified by the Department, that the constructed building can be used to begin manufacturing.

**Filing Annual
Surveys**

A taxpayer taking the benefit of a deferral must complete and file an annual survey with the Department beginning the year immediately following the year in which the project is operationally complete.

Example 2:

- If a manufacturer’s plant was operationally complete in June 2013, the first year in which an annual survey must be filed is 2014.
 - This is true even if the Department has not yet certified that the investment project is operationally complete.
-

**Frequently
Asked
Questions**

Following are two frequent questions involving the definition of operationally complete:

1. *More than one manufacturing line* - Is the investment project operationally complete when one manufacturing line is capable of being used even though more manufacturing lines are planned?
2. *Use of investment project* - What if the investment project is capable of being used for its intended purpose, but instead is used for a non-qualifying purpose?

The remainder of this ETA provides clarifications for these questions.

**More than one
manufacturing
line**

Is the investment project operationally complete when one manufacturing line is capable of being used even though more manufacturing lines in the same manufacturing plant are planned?

- If a final product can be manufactured from just one manufacturing line, even though the application shows that more lines are planned, the investment project is considered operationally complete.

Example 3:

The purpose of an investment project as stated in a tax deferral application is to build a manufacturing plant to produce a smart phone. There are three proposed manufacturing lines and each manufacturing line produces a final product. The manufacturing lines will be completed separately. The investment project is operationally complete when the first manufacturing line is complete and capable of being used for its intended purpose – to produce a smart phone.

- If a final product cannot be completed from one manufacturing line, then the investment project is not operationally complete until all manufacturing lines necessary to build the final product are completed.

Example 4:

The purpose of an investment project as stated in a tax deferral application is to build a manufacturing plant to produce a magnetic resonance imaging machine (MRI). There will be three manufacturing lines and all three are necessary to produce a finished MRI machine. The investment project is operationally complete when all three manufacturing lines are complete and a MRI machine can be produced.

**Use of
Investment
project**

What if the investment project is capable of being used for its intended purpose, but instead is used for a non-qualifying purpose?

The applicant must state on the deferral application the intended purpose of the investment project (i.e., what the building will be used for). Once the project is operationally complete, the applicant must notify the Department and the Department will determine, among other things, whether the project is being used for its intended purpose. If the Department determines that the building is not being used for its intended purpose, deferred taxes are immediately due and payable according to each deferral's repayment schedule.

Example 5:

The intended purpose of a qualifying investment project is to manufacture guitar picks. The building is capable of being used to manufacture guitar picks, but the demand for guitar picks has dropped. The applicant (manufacturer) of the deferral intends to use the building to manufacture guitar picks once demand increases. However, in the meantime, the manufacturer rents the building to an '80s cover band, which uses the building for rehearsals.

- The building is capable of being used for its intended purpose, which is to manufacture guitar picks. Therefore, the project is operationally complete.
 - Because the building is not being used for its intended purpose, the deferred taxes are payable and immediately due based on the deferral's repayment schedule.
-
