

Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3XXX.20XX

Draft 10/12/12

Purchases made with Funds Provided by the Federal Government

Scope of ETA Federal law prohibits Washington State from directly imposing retail sales tax on sales to the United States government. Washington State is not, however, prohibited from imposing retail sales tax on a sale to a person or entity that pays or is reimbursed with federal funds. The purpose of this excise tax advisory is to clarify the tax collection and reporting requirements when buyers use funds provided by the United States to pay for a purchase.

Background WAC 458-20-190 (Rule 190) *Sales to and by the United States -- Doing business on federal reservations -- Sales to foreign governments* explains that sales made directly to the United States, or otherwise prohibited by federal law, are not subject to retail sales tax.

Rule 190 further explains that sales by any person – whether the purchase is paid for with federal funds or through a reimbursement arrangement – are subject to business & occupation (B&O) and retail sales taxes unless otherwise exempt by law.

Funds provided under the Federal Medicare Act “Part B” of the federal Medicare Act provides eligible individuals a voluntary supplemental benefits program, which a beneficiary may use to purchase medical products. Under this program, the beneficiary is entitled to federal reimbursement for the cost of the products; or alternatively, the beneficiary can have the federal government directly pay the seller on the beneficiary’s behalf.

Although the seller may receive payment directly from the federal government, the federal government is paying these amounts on behalf of the beneficiary and thus the federal government is not the buyer. The beneficiary is the buyer and the sale is not a tax-exempt sale to the federal government.

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If you have questions regarding your tax-reporting responsibilities:

- Visit our website at dor.wa.gov;
- Send an email to communications@dor.wa.gov;
- or
- Call the Department’s Telephone Information Center at 1-800-647-7706.

For additional information, see *AARO Medical Supplies, Inc. v. Department of Revenue*, 132 Wn. App. 709,723, n.10, 132 P.3d 1143 (2006).

Funds provided by the American Red Cross

The American Red Cross is a tax-exempt instrumentality of the federal government that provides assistance to victims of natural disasters. There are different methods by which the Red Cross provides assistance. A sale may or may not be subject to sales tax, depending on the nature of this assistance (i.e., whether or not the Red Cross itself, as a tax-exempt instrumentality of the federal government, is making the purchase). For example, the sale is subject to retail sales tax when the recipient pays for the purchase using:

- Funds directly deposited by the Red Cross into the recipient's personal bank account; or
- A debit or client assistance card received from the Red Cross.

For additional information see Excise Tax Advisory 3156 *Disaster Relief Funds Provided by FEMA and the Red Cross*.

Funds provided by FEMA

The Federal Emergency Management Administration (FEMA) is an agency of the federal government that also provides assistance to victims of natural disasters. As is the case with the American Red Cross, there are different methods by which FEMA provides assistance. A sale may or may not be subject to sales tax, depending on the nature of this assistance (i.e., whether or not the FEMA, as an agency of the federal government, is making the purchase). For example, the sale is subject to retail sales tax when the recipient pays for the purchase using:

- Funds directly deposited by FEMA into the recipient's personal bank account; or
- A debit or client assistance card received from FEMA.

For additional information see Excise Tax Advisory 3156 *Disaster Relief Funds Provided by FEMA and the Red Cross*.

Funds provided by the U.S. Dept. of Veteran Affairs

The United States Department of Veteran Affairs (the VA) provides qualified disabled veterans funds toward the purchase of mobility adaptive equipment. Although the VA may make payment direct to the seller, supplier, or veteran, the VA is not the buyer.

The veteran is the buyer and is responsible for the purchase, including payment of the sales tax to the seller, regardless of whether the VA provides funds (authorized by Title 38 USC Chapter 39) to assist with the purchase.

**Are taxes
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Washington law does not provide any exemptions for B&O tax or retail sales tax for sales paid for with funds provided by Medicare, the American Red Cross, FEMA, or the VA as described above. Sellers must remit B&O tax and collect and remit sales tax on sales to qualified buyers even though some or all funds were received from these entities.

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