



State of Washington  
Department of Revenue

# Excise Tax Advisory

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Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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NUMBER: 52.04.171

CONVERSION DATE: July 1, 1998

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**This ETA is cancelled effective March 28, 2008.**

## CONSTRUCTION OF HIGHWAY TUNNELS FOR PUBLICLY OWNED ROADS

Issued July 8, 1966

Is the construction of highway tunnels for a publicly owned road under the Retailing or Public Road Construction classification?

A taxpayer performed a contract for the Bureau of Public Roads, installing and constructing timber and concrete linings in three short tunnels. The taxpayer contended this was a retail sale and relied on Rule 170 which specifically lists linings of tunnels as examples of "buildings or other structures."

The Commission held the construction to be subject to Business Tax as work done on a public road, being embraced within the language of RCW 82.04.280 (Public Road Construction) and thus the taxpayer was a consumer of the materials under RCW 82.04.190(3). It follows that the taxpayer was properly subject to the Use Tax upon the value of materials used.

It went on to observe that the construction of publicly owned roads, though structures, cannot be classified as retail sales as a result of the Statutory exclusion of RCW 82.04.050 and that Rules 170 and 171 do not attempt a complete listing or intend to so classify such work.

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***ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.***

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