



# Excise Tax Advisory

Excise Tax Advisories (ETAs) 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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

Number: 2003-6S

Issue Date: July 18, 2005

**This ETA is cancelled effective February 2, 2009 and reissued under the 3000 series.  
See ETA 3001 for a cross-reference to the new series.**

## Cancellation of Excise Tax Advisories

This advisory identifies Excise Tax Advisories (ETAs) that have been cancelled. These advisories have been cancelled for a number of reasons. In some cases a particular advisory may have been superseded by legislation, may no longer be correct because of a court decision, or may no longer be necessary because of specific inclusion in a subsequent rule revision.

This advisory is the sixth supplement to ETA 2003. ETA 2003 and previous supplements to ETA 2003 should not be discarded. ETA 2003 and its supplements provide a history of all of the advisories that have been cancelled.

### Advisory cancelled May 31, 2005:

ETA	Title	Reason for cancellation
540.04.22.252	Special Hazardous Substance Tax Applications	This advisory was cancelled because it provided out-of-date information. The ETA was written to explain the Department's interpretation of law (chapter 82.22 RCW) that was repealed and replaced with new law (chapter 82.21 RCW) a number of years ago. The ETA refers to provisions of WAC 458-20-252 that do not exist in the current version of the rule. Issues addressed in this document that are pertinent under current law are addressed in the rule. There is also no need for the list of examples of products that result from a crude oil refinery process. This list is 17 years old, and such information could be found via internet research.

### Advisory cancelled March 1, 2005:

ETA	Title	Reason for cancellation
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574.08.198	Financial Institutions Incurring Bad Debts on Contract Assignments.	This advisory explained the Department's position regarding contract assignments and retail sales tax bad debt credits as a result of the decision of the Washington State Supreme Court in <i>Puget Sound National Bank v. Department of Revenue</i> , 123.Wn2d 284, 868 P.2d 127 (1994). It was cancelled because the information was incorporated consistent with recent statutory amendments in the recent revision of WAC 458-20-196 Bad debts, which became effective February 27, 2005.
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**Advisory cancelled February 15, 2005:**

ETA	Title	Reason for cancellation
2013.57.015	QTIP Elections and Washington's Estate Tax.	<p>This document addressed whether a personal representative can make a different election for qualified terminable interest property (QTIP) on the Washington State estate tax return than on the federal estate tax return. It also addressed whether a personal representative may make a QTIP election on the Washington State estate tax return when no federal return is required.</p> <p>On February 3, 2005, the Washington Supreme Court rendered its decision in the estate tax class action lawsuit <i>Hemphill et al. v State of Washington, Department of Revenue</i>. The Supreme Court ruled that chapter 83.100 RCW automatically conforms to the changes made by Congress in 2001 (Public Law 107-16 (H.R. 1836)), therefore, the information in the ETA was no longer valid.</p>

**Advisories cancelled February 7, 2005:**

ETA	Title	Reason for cancellation
258.08.190	National Guard Post Exchange Sales.	This advisory explained that the National Guard is not an instrumentality of the federal government, and therefore is responsible for collecting Washington's retail sales tax when selling to guard members.
350.04.190	Business and Occupation Tax - - Medical Service Associations.	This advisory explained that a medical association contracting with the federal government is subject to Washington's business and occupation (B&O) tax.
2007.04.190	Taxability of federal instrumentalities and federally created corporate entities.	<p>This advisory explains that federal law must be reviewed to determine whether or to what extent a federal instrumentality or federally created corporate entity is subject to tax by Washington.</p> <p>The Department of Revenue cancelled these advisories because the information is sufficiently addressed in WAC 458-20-190 (Sales to and by the United states--Doing business on federal reservations -- Sales to foreign governments) as adopted on January 5, 2005 (WSR 05-03-002).</p>

**Advisory cancelled January 27, 2005:**

<b>ETA</b>	<b>Title</b>	<b>Reason for cancellation</b>
268.04.192	Indian Owned Corporation Doing Business on a Reservation.	This advisory was canceled because it provided incorrect information. ETA 268 explained that a corporation owned by Indians is not entitled to the exemption available to Indians engaging in business activities within an Indian reservation. WAC 458-20-192 (Rule 192) explains that a state chartered corporation, a partnership, or any other entity comprised solely of enrolled members of a tribe is not subject to tax on business conducted in Indian country. Rule 192 further provides that in the event that the composition of such an entity includes a family member who is not a member of the tribe, the entity will be considered as satisfying the "comprised solely" criteria if at least half of the owners are enrolled members of the tribe.

**Advisory cancelled December 1, 2004:**

<b>ETA</b>	<b>Title</b>	<b>Reason for cancellation</b>
535.04.240	Alternative credit computation formula—Seasonal employment manufacturers	This advisory explains how an employer who regularly operates only on a seasonal basis determines if the 15% employment increase requirement to receive the business and occupation (B&O) tax credit provided in Chapter 82.62 is met. This advisory is no longer needed. This issue is addressed in ETA 2018 (Alternative credit computation formula - Seasonal employment manufacturers).

**Advisories cancelled June 30, 2004:**

<b>ETA</b>	<b>Title</b>	<b>Reason for cancellation</b>
126.16.193	Storage and Handling of Grain for Export.	This document was cancelled because it contained inaccurate information. ETA 126 explains that the handling and storage of grain intended for export by a licensed public warehouse is subject to public utility tax. WAC 458-20-182 (Warehouse businesses) explains the tax-reporting responsibilities of warehouses and notes that no warehouse business or operation is subject to public utility tax.
143.04.193	Sales of Flour to Government for Export.	This document identified a situation in which the seller was unable to provide the documentation required to substantiate that the seller delivered goods into the export stream. This document is not needed as the documentary requirements are sufficiently addressed in WAC 458-20-193C (Imports and exports--Sales of goods from or to persons in foreign countries).

**Advisories cancelled June 30, 2004 (continued):**

ETA	Title	Reason for cancellation
299.32.229	Retail Sales Tax Refunds.	This advisory explained that a seller is not entitled to a refund of sales tax collected but not properly due unless the seller has first refunded the tax to the customer, and that the customer must secure a refund of tax overpayment from the seller. This document is no longer needed as WAC 458-20-229 (Refunds) addresses the subject matter, and identifies the circumstances under which the Department will consider making refunds of sales tax directly to the customer. ETA 299's explanation that both the seller and the customer have two years to seek a refund of sales taxes is also incorrect.
512.08.244	Food Products Sold Through Convenience Food Sales Locations.	The information provided in these documents was out-of-date. The issues are sufficiently addressed in WAC 458-20-244 (Food and food ingredients).
514.08.244	Dietary Supplements.	
378.08.166	Transient Guests--Message Service Charges.	This document explained that message service charges by hotels, motels, and similar lodging providers are retail sales. This document is no longer needed as the issue is sufficiently addressed in WAC 458-20-166 (Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.)
536.04.08.151/ 18801	Kidney Dialysis Machines and Heart Pacemakers Sales and Use Tax Exempt.	The information provided in this document is no longer needed. Kidney dialysis machines and pacemakers are currently identified as tax-exempt property in WAC 458-20-18801(Prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen). RCW 82.08.945 and 82.12.945, effective July 1, 2004, provide sales and use tax exemptions for kidney dialysis machines. Implanted pacemakers qualify as prosthetic devices under the definition of "prosthetic device" in RCW 82.08.0283 that became effective July 1, 2004.

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