



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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: 2038.08.17001

Issue Date: April 12, 2007

**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.**

Sales to the Washington State National Guard

The Washington State National Guard is supported by the Washington State Military Department, a state agency, and the Departments of the Army and Air Force, National Guard Bureau, United States Property and Fiscal Office (USPFO), which are federal agencies. Facilities or equipment which will be used by the Washington National Guard may be purchased by the state agency or by the federal agency. The tax liability of the supplier or contractor will depend on the agency to whom the sale is made.

State agencies as consumers are required to pay retail sales tax on the total amounts paid for purchases of supplies, equipment, and construction, even if the funds for such purchases come from the federal government. Suppliers and contractors are taxable under the retailing B&O tax classification on sales to state agencies. (Refer to WAC 458-20-189). In contracts with the State Military Department, the retail sales tax is due on the total amount of the contract.

The federal government, through its purchasing office (USPFO) or its agents, is not required to pay retail sales tax on purchases directly from suppliers, utilizing federal government procedures and instruments. Persons making sales of supplies and equipment to the federal government are taxable under the retailing B&O tax classification. Contractors performing alterations to, repairs to, or construction on real property for the federal government are required to pay retail sales or use tax on any materials used or installed in such work and are also subject to the government contracting B&O tax on the gross amounts received. The federal government may require that contractors add all sales or use taxes paid by the contractor into any costs included in the bid price.

In some cases, the federal government may contract for the construction of state armories for use by the National Guard. This is taxable as government contracting, and the contractor must pay retail sales or use tax on the materials installed when the state armory will continue to be owned by the federal government. (Refer to WAC 458-20-17001 and 190). In other cases, the National Guard/State Military Department acts as a purchasing agent for the federal government in making purchases of equipment which will be owned by the federal government with payment being made from federal funds. In these cases, the contractor is taxable as a retailer; but no retail sales tax applies.

Suppliers and contractors need to be certain whether the item being sold or the completed construction will be owned by the Washington National Guard. The difference in tax liability for sales to the federal

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government, as compared to the state government, is significant. Suppliers and contractors should retain within their records sufficient documentation to identify the purchaser. This documentation may consist of, but is not limited to, purchase orders, Department of Defense (DOD) contract bid documents, etc.

The tax liabilities are summarized in the following chart:

Customer:	State Military/ National Guard	Federal Government
<u>Construction:</u>		
Contractor pays sales/use tax on materials	No	Yes
Contractor pays sales/use tax on rental equipment and supplies (non-components)	Yes	Yes
Govt. Contracting B&O tax on gross	No	Yes
Retailing B&O tax on gross	Yes	No
Retail Sales Tax collected on gross	Yes	No
<u>Sales of Equipment and Supplies:</u>		
Contractor pays sales/use tax on material	No	No
Govt. Contracting B&O tax on gross	No	No
Retailing B&O tax on gross	Yes	Yes
Retail Sales Tax collected on gross	Yes	No
