



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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CONVERSION DATE: July 1, 1998

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**This ETA is cancelled effective June 29, 2007**

## AUTOMOBILE SALES ARRANGED BY OUT-OF-STATE FIRM BUT CONSUMMATED THROUGH IN-STATE DEALER

Issued September 9, 1966

Is an automobile dealer in this state subject to collect Retail Sales Tax from consumers upon orders which are arranged by an out-of-state firm which has no franchise and the dealer listed itself as the seller on title and registration documents, despite its claim that it was making wholesale sales?

The taxpayer, an automobile dealer, was assessed a Retail Sales Tax on transactions involving an out-of-state firm. The out-of-state firm dealt in the sale of automobiles but was not the holder of a franchise authorizing the sale of new automobiles, had no stock of goods, and no place of business or employees in this state. It secured purchasers, mostly servicemen, who desired to take delivery of automobiles upon reaching the continental United States. Upon receiving orders from such customers, the firm made arrangements with the taxpayer to accomplish delivery of specifically ordered vehicles to suit the requirements of its customers. At the time of making the delivery to the ultimate purchaser, the taxpayer attended to all details of issuing titles, registration, etc., and listed itself on these documents and on reports to the factory as being the seller to the consumer. The taxpayer contended that these sales were bona fide wholesale sales to the out-of-state firm. The taxpayer also argued that the Retail Sales Tax was not due on any of these transactions on the grounds that they constituted sales to nonresidents exempt under Rule 177.

The Tax Commission noted that in all cases of transactions between the taxpayer and the out-of-state firm, the taxpayer made local deliveries of the vehicles sold to consumers in this state. The taxpayer further showed itself as being the seller to such consumers in its books of account and on its dealer's report of sale for title and registration documents. From this evidence the Commission held that the taxpayer was a retailer and subject to the Retail Sales Tax.

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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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Other indications of the taxpayer's retailing capacity were also noted by the Commission. The taxpayer contended that it should be treated as a wholesaler making sales to the out-of-state firm involved, but that firm was not registered with the Tax Commission, so the Commission could not honor resale certificates even if they had been given by the firm. If the firm had registered with the Tax Commission and assumed liability for accounting for the Retail Sales Tax upon local sales and deliveries to consumers, then the firm could be recognized by the Commission as a person to whom the taxpayer could sell without collecting the Retail Sales Tax.

The Commission, therefore, ruled that the taxpayer was accountable for the Retail Sales Tax on all vehicles delivered in this state to consumers where the documentary evidence required by Rule 177 was not secured and retained by the taxpayer. (Order.)