



State of Washington  
Department of Revenue

# Excise Tax Advisory

---

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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

---

NUMBER: 49.04.171

CONVERSION DATE: July 1, 1998

---

**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.**

## PUBLIC ROAD CONSTRUCTION INCLUDED IN A LUMP SUM GENERAL CONSTRUCTION CONTRACT

Issued July 8, 1966

Is the construction of publicly owned roads taxable as a retail sale where the contract or records of the contractor only show a lump sum amount and fail to provide a separate accounting for roads to be constructed as a part of a construction project?

A contractor was hired on a lump sum contract to construct a large number of family housing units, related facilities, streets and sidewalks within a subdivision. The contract did not itemize the work, leaving unstated the amount for construction of public roads.

The Commission held that the records of a taxpayer need only prove that such work was performed and need only establish that the value as reported for Excise Tax purposes is reasonable to be taxable under RCW 82.04.280 "Public Road Construction" rather than RCW 82.04.250 "Retailing". According to RCW 82.04.190 "sale at retail" shall not include the sale of or charge made for labor and services rendered for:

"... the building, repairing or improving of any publicly owned street, place, road, highway, bridge or trestle which is used or to be used primarily for foot or vehicular traffic..."

---

***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.***

Please direct comments to:  
Department of Revenue  
Legislation & Policy Division  
P O Box 47467  
Olympia, Washington 98504-7467  
(360) 753-4161 eta@DOR.wa.gov

To inquire about the availability of receiving this document in an alternate format for the visually impaired or language other than English, please call (360)705-6715. Teletype (TTY) users please call 1-800-451-7985.



State of Washington  
Department of Revenue

# Excise Tax Advisory

---

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.

---

NUMBER: 49.04.171

CONVERSION DATE: July 1, 1998

---

The Commission observed that in contracts calling for the construction of publicly owned roads the contractor must pay Use Tax on the value of all materials used or consumed in performance of such work when purchases of such material have not been subjected to the Retail Sales Tax.

---

***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.***

Please direct comments to:  
Department of Revenue  
Legislation & Policy Division  
P O Box 47467  
Olympia, Washington 98504-7467  
(360) 753-4161 eta@DOR.wa.gov

To inquire about the availability of receiving this document in an alternate format for the visually impaired or language other than English, please call (360)705-6715. Teletype (TTY) users please call 1-800-451-7985.