



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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 114.08.12.102

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.**

INTERVENING USE OF ARTICLES HELD FOR RESALE

Revised: December 31, 1992

This Excise Tax Bulletin is a clarification and does not indicate a change in the Department's policy in this area. It explains the Department's position on retail sales and use taxes for articles which are loaned to customers and subsequently sold. An example of this practice involves coffee brewing equipment.

Many coffee manufacturers and/or distributors purchase coffee-brewing equipment, which is loaned to various customers to promote their coffee sales. After a period of time, the used coffee-brewing equipment is sold, with retail sales tax being collected.

The Department considers the loaning of the coffee-brewing equipment prior to sale to be intervening use, as a consumer. RCW 82.08.020 states that the retail sales tax "shall apply to successive retail sales of the same property." Retail sales tax is due upon the acquisition of such equipment, notwithstanding an intent to subsequently resell the same. If retail sales tax has not been paid, the purchaser must remit use tax directly to the Department.

The coffee manufacturer and/or distributor loaning the equipment may not claim any deduction of tax paid or due by reason of collecting retail sales tax on the subsequent sale of the equipment. RCW 82.12.020 provides that:

[P]ayment by one purchaser or user of tangible personal property of the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect of exempting any other purchaser or user of the same property from the taxes imposed by such chapters.

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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WAC 458-20-102 permits a buyer normally engaged in both selling and consuming certain types of articles to give a resale certificate for all such articles, and remit deferred sales/use tax for those articles used. WAC 458-20-102 does not permit the purchase and use of an article without payment of tax merely because the equipment may be eventually resold after use. Neither does it allow the buyer to purchase articles without payment of the retail sales tax when it knowingly will be putting these articles to intervening use prior to sale.