



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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 123.12.176

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.**

COMMERCIAL DEEP SEA FISHING VESSEL EXEMPTION

Issued August 5, 1966

May a water vessel owner claim an exemption for commercial deep sea fishing operations for a watercraft designed, built and intended for commercial deep sea fishing outside Washington territorial waters but used primarily in conducting charter operations for sport fishermen?

The taxpayer was assessed a Use Tax upon a vessel built for use as a commercial deep sea fishing boat but which was primarily used only as a charter fishing boat for sport fishing. The taxpayer owned the boat for thirteen months and he used it for one full season for charter-sport fishing. The auditor assessed the tax, contending that, although this vessel was designed as a deep sea fishing craft and the taxpayer was engaged in some commercial deep sea fishing, the taxpayer did not use the vessel primarily in the conduct of his commercial deep sea fishing operations outside the territorial waters of Washington but used it rather as a charter boat for sport fishing. The taxpayer claimed an exemption under RCW 82.12.030(4). He contended that the facts clearly evidenced an original intent on his part to use the vessel for commercial deep sea fishing outside Washington territorial waters, but due to financial conditions beyond his control he was forced to use the vessel for charter purposes.

The Commission held that the exemption sought by the taxpayer was limited by the language of RCW 82.12.030(4), which provides that the Use Tax shall not apply

"In respect to the use of any . . . watercraft . . . used primarily in commercial deep sea. fishing operations outside the territorial waters of the state."

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)753-3217. Teletype (TTY) users please call 1-800-451-7985.

The Commission has held that charter boats used for sport fishing do not qualify for an exemption under RCW 82.12.030(4). (See ETB 71.) However, in this case, the taxpayer was operating a boat designed and equipped for deep sea fishing for charter operations.

The Commission noted that the legislature might have made the exemption available to persons using watercraft which were simply designed and equipped for deep sea fishing, but, under the exemption as written, it was applicable only to watercraft actually used primarily in commercial deep sea fishing operations outside the territorial waters of the state. Therefore, although the taxpayer designed and equipped the boat for deep sea fishing operations, his use of the boat for charter operations prohibited an exemption under RCW 82.12.030(4).