



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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NUMBER: 131.04.170

CONVERSION DATE: July 1, 1998

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**This ETA is cancelled effective February 28, 2007**

## CONSTRUCTION COMPANY AS AGENT FOR OWNER

Issued August 5, 1966

Do the amounts expended for labor and materials by a contractor-agent constitute a sale at retail from agent to principal?

The taxpayer was hired to perform all construction work the owner might request under a "term contract," which ran for a three-year period. Funds as needed to cover anticipated job construction disbursements were deposited into special accounts by the owner, from which the taxpayer alone was authorized to make withdrawals. The taxpayer had no investment in the construction contract, all monies being advanced for materials and labor by the owner. The taxpayer claimed it should not be taxable as construction contracting subject to Business Tax under the "Retailing" classification and Retail Sales Tax because the amounts received for materials and labor were received and paid as an agent for the owner.

RCW 82.04.050 provides that "sale at retail" includes the sale or charge for tangible personal property consumed and/or labor and services rendered in the construction of any structure.

The Commission held that all amounts paid by the owner to the taxpayer were subject to the Retail Sales Tax under the definition of RCW 82.04.050. The fact that the taxpayer's services were rendered as an agent rather than an independent contractor only eliminated the tax due from the taxpayer on purchases of materials and letting of subcontracts in the name of and for the account of the owner. However, materials purchased for the taxpayer's own use constituted consideration paid to the taxpayer for services rendered and the gross value of such materials was to be included in computing the Retailing and Retail Sales Taxes.

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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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