



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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: 177.04.203

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.**

NONPROFIT SALES BETWEEN PARENT AND SUBSIDIARY CORPORATION

Issued August 26, 1966

Where a corporation, in dealing with certain customers, sells products to a subsidiary corporation which then sells the products to the customers, is the subsidiary corporation taxable on the gross receipts from the sales?

The taxpayer was a wholly owned subsidiary of another corporation. To hide the fact that the parent corporation was selling petroleum products to certain of its customers, the taxpayer was used as a conduit through which the transactions were routed. Invoices described the taxpayer as purchasing products from its parent and as selling the products to the customers. The parent corporation delivered the products in its unmarked trucks, but the employees represented themselves as being employees of the taxpayer. No profit was made by the taxpayer on the sales. The taxpayer claimed that, since the two corporations were closely affiliated and the transactions between them were for the convenience of the parent, the transactions were merely bookkeeping entries and did not constitute taxable sales.

RCW 82.04.040 defines sale to mean "any transfer of the ownership of, title to, or possession of property for a valuable consideration." The records of both corporations showed a transfer of the title and ownership of the petroleum products. Although no transfer of the physical possession of the products occurred, the Commission held that the taxpayer was taxable on the sales to its parent's customers. The taxpayer was a separate corporate person, and, because it was organized to make the very sales in question, it could not discard its corporate status with regard to the Business and Occupation Tax liability on those sales.

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:
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See Washington Sav-Mor Oil Co. v. Tax Commission, 58 Wn.2d 518 (1961). (Order.)

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