



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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NUMBER: 185.04.200 *Repealed June 30, 2000*

CONVERSION DATE: July 1, 1998

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## LEASE BASED ON A PERCENTAGE OF GROSS PROCEEDS

Issued August 26, 1966

*Repealed June 30, 2000*

Where a lease contract provides for rent based on gross proceeds of the lessee's business, may the lessee deduct from his gross proceeds that percentage which must go directly to the lessor?

Taxpayer, the operator of an amusement concession, was obligated to pay 35 per cent of his gross income to his lessor. Taxpayer protested an assessment based on his entire gross receipts because the lessor was also taxed on the receipt of rent payments.

The Business and Occupation Tax is imposed on the "gross income of the business," a term defined by RCW 82.04.080 to mean "the value proceeding or accruing by reason of the transaction of the business engaged in" without any deductions.

The Commission held that expenses based on gross proceeds were expenses of doing business and nondeductible under the all-inclusive definition of the above-quoted Statute. Although the effect is to pyramid the Business and Occupation Tax, this is a normal result of a tax measured by gross receipts and not a problem over which the Tax Commission can exercise administrative discretion.

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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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