



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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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.**

WHEN SALES TAX IS DUE ON PAYMENTS RETAINED UNDER PUBLIC WORKS CONTRACTS

Issued September 2, 1966

Where a statute requires portions of progress payments due a contractor to be retained by the purchasing public body, is the Sales Tax due on the retained funds when earned or at the time of actual payment?

The taxpayer was a contractor engaged in performing school construction contracts. Pursuant to RCW 60.28.010 a percentage of progress payments due the taxpayer was retained by the public body to insure payment of certain direct obligations of the contractor. The taxpayer claimed the Sales Tax was due him from the public body at the time the payments were earned.

Rule 103 provides with respect to the charges made for performing services that a sale takes place when the services are performed. The taxpayer had performed the services necessary to entitle him to the progress payments. The funds retained by the public body were the property of the taxpayer and were held in trust to insure payment of the taxpayer's obligations. Therefore, the Sales Tax was due at the time when the taxpayer earned the payment by rendering the services required. (Letter)

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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