



# Excise Tax Advisory

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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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## **Manufacturers' Machinery and Equipment Exemption — Research and Development**

The Department has issued a series of Excise Tax Advisories (ETAs) to address questions regarding the retail sales and use tax exemption provided by RCW 82.08.02565 and 82.12.02565, commonly referred to as the manufacturers' machinery and equipment exemption (M&E exemption). This advisory, ETA 2012-10S, is issued to address the application of the M&E exemption to a research and development (R&D) operation. Please refer to ETA 2012.08.12.13601 for a current list of the issues covered by this series.

### **Machinery and equipment used in research and development**

The M&E exemption applies to sales of machinery and equipment used directly in an R&D operation by a manufacturer or processor for hire. Machinery and equipment is used directly in an R&D operation if it is integral to R&D as defined in RCW 82.63.010.

"Machinery and equipment" includes:

- Industrial fixtures,
- Devices,
- Support facilities,
- Tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts, and
- Pollution control equipment installed and used in an R&D operation to prevent air pollution, water pollution, or contamination that might otherwise result from the operation.

Examples of machinery and equipment include computer hardware, software, data processing equipment, and laboratory equipment. Machinery and equipment does not include property with a useful life of less than one year.

### **Integral to research and development operation**

Machinery and equipment is integral to an R&D operation if R&D cannot be accomplished without such machinery and equipment. For example, a laboratory table is integral to an R&D operation. Likewise, telephones, computer hardware (e.g., cables, scanners, printers, etc.), and computer software (e.g., Word, Excel, Windows, Adobe, etc.) used in a typical workstation for an R&D personnel are integral to

an R&D operation. Also, a chair used in a laboratory workstation is integral to an R&D operation. A chair used in a lobby area, however, is not integral to an R&D operation. Similarly, decorative artwork is not integral to an R&D operation.

### **Research and development operation**

"R&D operation" means engaging in R&D by a manufacturer or processor for hire. R&D can be performed away from a manufacturing site, and the machinery and equipment used to perform such R&D may still qualify for the M&E exemption. R&D includes the following activities:

- Activities performed to discover technological information,
- Technical and non-routine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software, and
- Exploration of a new use for an existing drug, device, or biological product, if the new use requires separate licensing by the federal food and drug administration under chapter 21, C.F.R., as amended.

R&D does not include the following activities:

- Adaptation or duplication of existing products without substantial improvement by application of the technology,
- Surveys and studies,
- Social science and humanities research,
- Market research or testing,
- Quality control,
- Sale promotion and service,
- Computer software developed for internal use, and
- Research to improve style, taste, or seasonal design.

The M&E exemption uses the definition of R&D as provided in RCW 82.63.010. Refer to WAC 458-20-24003 for additional information on what constitutes R&D.

### **Majority use requirement for machinery and equipment used in research and development**

Machinery and equipment used in R&D operation must satisfy the majority use threshold in order to qualify for the M&E exemption. Machinery and equipment that does not satisfy the majority use threshold is subject to use tax at the time the majority use threshold is no longer met. For example, a laboratory table used solely for qualifying R&D purposes and then converted solely to non-qualifying uses is subject to use tax at the time of conversion. Refer to WAC 458-20-13601 for additional information on the majority use threshold.

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