



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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: 202.12.171

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.**

CONSTRUCTION OF PRIVATE ROADS INTENDED TO BE DEDICATED TO THE COUNTY

Issued September 2, 1966

Does a contractor engage in "public road construction" when constructing roads on land owned by a private investment company but intended to be dedicated to a public body?

Taxpayer, a road contractor, was hired to build roads on land owned by an investment builder as part of a subdivision development. The preliminary plat was submitted to the county engineer's office with the ultimate objective of dedicating the streets to the county. Taxpayer objected to the assessment of retail sales tax on the total contract price.

RCW 82.04.050 exempts from "sale at retail" contracts for the building of "publicly owned" streets. See ETB 255.04.171. The Commission holds that where there is a reasonable certainty that streets and roads will be dedicated to the public body as a result of the platting of an area by an investment builder, such contracts may be classified as "public road construction." However, if the roads and streets are not finally dedicated to the public body within a reasonable period of time after the work is completed the investment builder will be held liable for deferred sales tax on the cost of the work.

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:
Department of Revenue
Legislation & Policy Division
P O Box 47467
Olympia, Washington 98504-7467
(360) 753-4161 eta@DOR.wa.gov

To inquire about the availability of receiving this document in an alternate format for the visually impaired or language other than English, please call (360)753-3217. Teletype (TTY) users please call 1-800-451-7985.