



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

NUMBER: 249.04.159 *Repealed June 30, 2000*

CONVERSION DATE: July 1, 1998

INTERSTATE SALES AND CONSIGNOR AS AGENT OF SELLER

Repealed June 30, 2000

Issued September 16, 1966

Can a consignor on interstate shipments to out-of-state customers be established as a marketing agent of a seller to gain the exemption from Business Tax for the interstate sales?

Bills of lading for interstate shipments of the taxpayer's products to out-of-state customers did not list the taxpayer as consignor. Business Tax was assessed against the taxpayer on the basis that the taxpayer had made in-state sales of its products to the persons named as consignors on the bills of lading. The taxpayer protested the assessment claiming that the named consignors were actually brokers acting as agents for the taxpayer in securing out-of-state customers and making shipments to them.

In order to qualify for an interstate exemption on sales a seller must show that he made the shipment out of state. This can be demonstrated by the bill of lading for the shipment describing the seller as consignor and the purchaser as consignee. The taxpayer produced affidavits of agency and other evidence from the persons named as consignors on the out-of-state shipments. The Commission held that where the evidence is sufficient to clearly establish the principal-agent relationship and the agent supplies bills of lading as required by Rule 193, the sales to out-of-state customers are exempt from Business Tax. The agents were held liable for Business Tax under the Service classification on the commissions received from the sales. (Order.)

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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