State of Washington Department of Revenue

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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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: 433.04.170/171 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.

BUSINESS & OCCUPATION TAX: CONTRACT ASSIGNMENTS

Issued July 9, 1971

Where prime contractors assign all or portions of the work contracted for to a subcontractor, which one is subject to imposition of business and occupation tax?

Taxpayer, a contractor, took contracts in its own name and subsequently assigned all or portions of the work to subcontractors. Taxpayer sought clarification of its liability for business and occupation tax on such contracts, arguing that the subcontractor (assignee) should bear the tax liability.

The department ruled that where a prime contractor assigns a contract to a subcontractor, under an agreement strictly between themselves, the prime contractor retains contractual responsibility to the customer and is subject to the business and occupation taxes measured by the gross contract price. In such a case the subcontractor is also subject to the business and occupation tax measured by the gross price for the work performed under the subcontract.

These pyramiding features of the tax are applicable in all cases of contract assignments except the following: If the customer is a party to the assignment, and relieves the prime contractor of all contractual liability, then the second contractor is taxable as the prime contractor and the first is excused.

As indicated in published Rule 170, prime contractors are taxable under the Retailing classification, and subcontractors under the Wholesaling classification upon their gross contract prices.

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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