



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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: 440.12.178

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.**

USE TAX ON PROPERTY ACQUIRED BY INHERITANCE

Issued October 15, 1971

Is use tax due upon tangible personal property acquired by inheritance where the testator has not paid sales tax on the property?

Taxpayer had possession of a boat owned by his father which taxpayer intended to purchase. He carried the boat on his business books as an asset and reported it as a deductible expense item on federal tax returns. The father died testate before the taxpayer could actually purchase the boat and left his entire estate to the taxpayer. All available records indicated a failure by the taxpayer's father to pay retail sales tax upon his original acquisition of the boat.

The department ruled that a gift received from a donor who has not paid the sales tax thereon is clearly subject to the use tax.

RCW 82.12.020 provides in part:

There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any article of tangible personal property purchased at retail, or acquired by lease, gift, repossession or bailment . . . (Emphasis added.)

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.

It was immaterial whether the boat was acquired by outright gift prior to the donor's death or by inheritance. Both methods of conveyance are contemplated by the statute which imposes the use tax against the property where sales tax has not been paid.

The department noted that in cases of inheritance only infrequently is there a serious question of whether the deceased had paid sales tax on the bequests, but when it is determined that the sales tax was not paid, the statute requires imposition of the use tax.

Thus, use tax is properly due on inherited tangible personal property where the testator (donor) failed to pay sales tax upon his original purchase thereof.