



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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**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.**

RENTALS WITHIN AND WITHOUT WASHINGTON

Issued March 17, 1972

How does business and occupation and retail sales tax apply to income from leases or rentals of tangible personal property put to use by the lessee both inside and outside of Washington State?

Leases and rentals of tangible personal property are defined by statute as being "sales at retail" (see RCW 82.04.050). The controlling factor which determines whether Washington State possesses taxing jurisdiction over such lease or rental income is the physical location of the property in this state during the term of the lease. The taxable incident takes place in this state when the property is "used" in this state by the lessee. Conversely, when leased tangible personal property is used by the lessee outside Washington State, this state does not impose its jurisdiction with respect to that use. (See *Longview Tugboat Company v. State* (1964) 64 Wn. 2d 323, and *Stone v. Stapling Machines Co.*, Miss. 1954, 71 S. 2d 205.)

Thus, persons who lease or rent tangible personal property for use both within and without Washington are taxable upon that portion of gross income derived from its use by the lessee in Washington, providing accurate records are maintained to substantiate the amount of "use" claimed outside this state.

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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