



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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: 527.04.08.1193A

REPEALED 6/30/1999

CONVERSION DATE: July 1, 1998

LOCAL SALES TO WASHINGTON CONSUMERS WHO "PICKUP" GOODS OUTSIDE THIS STATE

Issued June 17, 1983

WAC 458-20-193A explains the application of a business and sales tax exemption where goods originate in this state and are delivered to buyers outside this state by actual interstate shipping or delivery between states. The rule requires that proofs be retained by the seller sufficient to establish an actual interstate delivery, across the boundaries of this state, in order to perfect the claimed tax exemption. This rule and the commerce clause provisions upon which the tax exemption is based have been widely misunderstood to allow tax exemption even in cases where no actual interstate delivery to points outside this state has occurred. Thus, some Washington located retailers have claimed business and sales tax exemption for sales which originate in this state (all indicia of sale occurs in Washington) to Washington buyer-consumers, but where the buyer agrees to pick up the merchandise at an out-of-state location, as a matter of convenience to either the buyer or seller.

The exemption for interstate sales and deliveries does not apply in such cases. Thus, for example, if a retail sale of merchandise is consummated at a store in Vancouver, Washington, and the merchandise is picked up by the Washington buyer at the seller's warehouse or terminal in Portland, Oregon, both the business tax and retail sales or use tax apply to the transaction. In such cases the seller has not delivered the goods from a place of origin in this state to a delivery point outside this state. The sale is not an interstate transaction at all. There is no state statute which exempts such sales from taxation nor are the taxes prohibited under U.S. or state constitutional provisions.

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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It is the position of the Department of Revenue, subject to strict enforcement from the effective date of this Bulletin, that both business and occupation tax and sales/use tax are applicable to sales of this kind. The tax collection and reporting burden rests upon the seller under Chapters 82.04 and 82.08 RCW.

The rationale for this position rests in the U.S. Supreme Court decisions in *Standard Pressed Steel Corporation v. Department of Revenue*, 42 L. Ed. 2d 719, (for business tax) and *National Geographic Society v. California*, 430 US 551 (for sales/use tax).

Sales involving actual delivery of the goods by the seller or the seller's carrying agent from points within this state to destinations outside this state are still tax exempt pursuant to the provisions of WAC 458-20-193A.

Nonresidents of this state may still purchase merchandise at stores within this state and take possession of the merchandise within or outside of this state without paying retail sales tax by providing the seller with a valid nonresident permit.