



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.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

TAXATION OF AMOUNTS RECEIVED THROUGH SALES OF ABANDONED VEHICLES

Issued September 1, 1984

What is the tax liability of towing operators selling abandoned vehicles at public auction? This question was presented in a recent administrative appeal before the Department of Revenue. This excise tax bulletin, which will apply prospectively, summarizes the Department's ruling.

Chapter 46.52 RCW provides for the removal and storage of abandoned motor vehicles. A "registered disposer," (which is defined to include a tow truck operator) is required to take custody of any vehicle placed in his custody by a law enforcement officer and to remove the vehicle to his established place of business for storage. The law gives the registered disposer a lien upon the vehicle for service provided in towing and storing the vehicle. The registered disposer then requests from the Department of Licensing the name of the vehicle's owner. Notice is mailed to the last known address of the vehicle's owner. The notice states the amount due the registered disposer for services in the towing and storage of the vehicle, and the time and place of public sale.

If the vehicle is not claimed, the registered disposer is authorized to sell it at public auction. The proceeds of sale are used to compensate the registered disposer for the towing and storage charges, and for the cost of the sale. Any excess is divided equally between the county and the state.

RCW 82.04.050 defines "sale at retail" or "retail sale" to include "the sale of or charge made for labor and services rendered in respect to automobile towing." Also included within the statutory definition

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are amounts received by persons engaging in "automobile parking and storage businesses." Therefore, income received for providing automobile towing, parking, and storage services is subject to the Retailing

business and occupation tax imposed by RCW 82.04.250 and the retail sales tax imposed by RCW 82.08.020.

The sale of an abandoned vehicle at public auction is simply a means of securing payment of the accumulated toward storage charges. Consequently, that portion of the proceeds which compensates the registered disposer for these charges is subject to both Retailing business and occupation tax and retail sales tax.

If the proceeds of the sale exceed the amount necessary to satisfy the lien for towing and storage charges (and the applicable retail sales tax), the excess is first applied to the cost of the sale. The remainder, if any, is divided equally between the county and the state.

That portion of the proceeds which compensates the registered disposer for the costs of the sale is subject to the Service and Other Activities business and occupation tax imposed by RCW 82.04.290. That portion of the proceeds which is disbursed to the county and the state is not subject to tax, because the registered disposer is a mere conduit of these funds.

In some instances, however, the proceeds of the sale may not be sufficient to satisfy the lien for towing and storage. In these cases, the entire amount received shall be deemed to be payment for towing and storage plus the applicable retail sales tax. The measure of both the Retailing business and occupation tax and the retail sales tax shall be determined according to the following formula:

$$\text{measure} = \frac{\text{proceeds at auction}}{1 \text{ \& applicable sales tax rate}}$$

For example, if total towing and storage expenses are \$200, but only \$100 is received at auction, the measure of the tax in a jurisdiction with a retail sales tax rate of 7.8% would be computed as follows:

$$\begin{aligned} \text{measure} &= \frac{\$100}{1.078} \\ &= \$92.76 \end{aligned}$$

Since the measure of the retail sales tax is only \$92.76, by using this formula the registered disposer in this example is not forced to absorb the retail sales tax. Furthermore, since the measure of the Retailing business and occupation tax is also \$92.76, the registered disposer is not forced to pay business and occupation tax on that portion of the proceeds at auction which represents retail sales tax.