



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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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## HAZARDOUS SUBSTANCE TAX -- EXCLUDE SUBSTANCES ALREADY POSSESSED

Issued April 18, 1988

RCW 82.22.030 expressly provides an exemption of hazardous substance tax for possessions of hazardous substances where the possession in this state occurred before January 1, 1988, the effective date of the tax. See WAC 548-20-252(4)(e). This exemption expresses legislative intent that the tax was not to have retroactive application. This legislative intent was further evidenced by a 1988 amendment to the law. As originally enacted in 1987, the law provided that the hazardous substance tax would not apply to substances or products packaged as household products and distributed for domestic use until April 1, 1988. This provision was amended by Engrossed Senate Bill 6440 to extend the effective date for two more months, until June 1, 1988, and to expressly grant an exemption for such packaged products which are already in any person's possession in this state as of that extended date. As Rule 252 explains, the exemptions for current inventories of goods (goods already possessed in this state on the effective tax date) follows those goods throughout their useful life, until such existing inventories are depleted. This is also true of household packaged goods distributed for domestic use. Thus, such packaged goods already possessed here as of June 1, 1988 are not subject to the hazardous substance tax in any person's possession. Certifications such as that set out at Part (15) of Rule 252 should be provided by sellers of such exempt goods to their registered retail buyers in order to verify the buyers' entitlement to this exemption.

Also, in further recognition of the expressed legislative intent that the hazardous substance tax should not have retroactive effect, it is necessary to extend the same treatment as explained above for substances which may be newly designated as hazardous substances by future adoption rules of the Department of Ecology. See Part (6)(b)(iii) of Rule 252. Thus, though the law provides that the addition of new hazardous substances by rule will not take effect for tax purposes until the first day of the month following such rule adoption, such tax will not be required to be reported or paid, nor will such tax be

***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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assessed by the Department of Revenue upon newly designated hazardous substances until the current inventories of such substances, already possessed, have been depleted. It is the Department's position that a reasonable time within which all such current inventories should be depleted is three months from the effective date of the newly adoption Department of Ecology rule.

It is the purpose of this bulletin that persons affected by the hazardous substance tax should not be required to inventory supplies of substances in storage or on their retail shelves whenever new substances are added by rule, in order to try to determine which of their inventory items are taxable hazardous substances. Such persons should be able to determine their hazardous substance tax liability simply by reference to their purchase and sales records.

The Departments of Revenue and Ecology recognize the difficulties attendant to the start-up phases for properly reporting as well as administering this new tax. Every reasonable effort will be made to assist retailers and others in determining precisely which things are taxable hazardous substances and precisely how to report tax liability and use tax exemptions and credits. Specific questions about tax application should be referred to the Department of Revenue by calling the following numbers:

1-800-233-6349.....Out-of-state callers

1-800-647-7706.....In-state callers

(206) 753-5525..... Olympia

Questions about whether any item is designated as a hazardous substance should be referred to the Department of Ecology at (206) 438-3000.