



# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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## Public Road Construction for Private Individuals

Where a road is constructed on land owned by the county but the paving is paid for by an individual rather than the county, is the contractor taxable as a public road contractor?

The term "sale at retail" in RCW 82.04.050 specifically excludes labor and services in the construction of any "publicly owned" road. Such activities are subject to the public road construction classification of the business and occupation tax (RCW 82.04.280). Public road contractors are defined as consumers of all materials used in the construction work and must pay the retail sales tax on their purchases of materials or the use tax if no retail sales tax has been paid.

When the streets or roads are dedicated to the county they are "publicly owned." The contractor's labor and services are not subject to retail sales tax even though paid for by someone other than the county. The contractor is subject to the business and occupation tax under "public road construction" and must pay retail sales tax or use tax on materials used, but does not collect any retail sales tax from the person paying for the work.

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**All ETAs were cancelled on February 2, 2009 and those which had a continued use were rewritten and reissued using a new numbering system. The new ETAs are numbered using the following format 3nnn.yyyy. The Department of Revenue issued ETA 3001.2009 which includes a cross reference table showing the old and new ETA numbers for those ETAs that were rewritten.**

Please direct comments to:  
Department of Revenue  
Interpretation and Technical Advice  
Division  
P O Box 47453  
Olympia, Washington 98504-7453  
(360) 570.6124 eta@DOR.wa.gov

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