



# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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## Paving Cuts

What is the proper tax classification of contracts to install gas mains, water mains, sanitary sewers, etc., which involve pavement cuts or the opening and closing of publicly owned roads? Also, may such a contract be bifurcated between the retailing and public road construction business and occupation (B&O) tax classifications?

When a contractor is hired to perform the entire job; which includes opening the road bed, excavation, placing the pipe or line, filling and paving; the entire contract will be taxed under the retailing B&O tax and retail sales tax will be due on the entire contract.. It is immaterial if the contract segregates amounts to be paid for the "road repair" from the other work because the road repair is an essential part of the activity and RCW 82.04.051 states that the predominant purpose of the contract will control. Therefore, the contract may not be bifurcated to treat a portion of the contract as public road construction.

Further, a contractor who is hired by the end consumer only to repair the road after the pipe or line is installed will be taxable as a public road contractor.

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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.**

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