

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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## Dump Truck Operators

What excise tax liabilities result from the various types of work engaged in by dump truck operators? Listed below are different types of operations and the resultant tax liability.

1. Sales of fill dirt or top soil are taxed under retailing business and occupation (B&O) tax classification and retail sales tax (or wholesaling B&O tax classification if sold for resale).
2. Income from contracts for trenching, excavating or back filling are taxable under the retailing B&O tax classification and retail sales tax (or the wholesaling B&O tax classification when done as a subcontract). In this situation, the operator contracts to perform such earth moving activities as excavating and dumping earth according to specific requirements of the agreement. The operator is responsible for special work and the contract has as its purpose the removal or placement of earth as distinct from the performance of mere transportation services.
3. Hauling for hire is taxed under either the motor or urban transportation classification of the public utility tax. In this situation, the agreement calls for the performance of mere transportation services including loading and dumping.
4. Activities which combine those included in number 2 (earth moving) and number 3 (hauling for hire) are taxed under the retailing B&O tax classification and retail sales tax (or wholesaling B&O tax classification when performed as a subcontract). In this situation, the contract combines hauling with a specific earth moving agreement (for example: a contract to excavate a basement which requires the contractor to haul away the excavated material) the entire contract will be treated as an earth moving contract unless the hauling portion is separately stated in the contract and billed separately.
5. Excavating, filling, hauling and tailgate spreading to specification on public road jobs (except state owned roads) is taxed under the public road construction classification of the B&O tax. When these activities are performed in connection with state owned roads, tax is due under the retailing B&O tax classification and retail sales tax (or wholesaling B&O tax classification if done as a subcontract).

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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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Motor transportation or urban transportation does not include the hauling of any earth or other substance excavated or extracted from or taken to the right of way of a publicly owned street, place, road or highway, by a person taxable under the classification of public road construction. This is true regardless of whether or not the earth moving portion is separately stated.

6. Mere hauling and tailgate spreading is taxed under the motor or urban transportation classification of the public utility tax unless the activity constitutes public road construction under WAC 458-20-171. The public utility tax classifications are applicable when the obligation of the contractor is limited to providing transportation services.

7. Bare truck rentals are taxed under the retailing B&O tax classification and retail sales tax or the wholesaling B&O tax classification. The rental of a dump truck to a contractor for use by the contractor is a retail transaction. Wholesaling is involved only when the lessee intends to re-lease it (without operator) to another.

8. The rental of a truck with a driver is not taxed as a rental but rather according to the nature of the activity performed; e.g. hauling for hire, earth moving, public road construction. In this situation, the operator is deemed to be performing contract services (as distinct from merely renting equipment). If the lessee is performing activities taxable under the motor or urban transportation classification, the lessor is entitled to the deduction in RCW 82.16.050(3).

9. Income from contracts for logging road construction is taxable under the extracting B&O tax classification.

10. Contract income to the owner operator of earth moving equipment at a landfill is taxable under the retailing B&O tax classification, and retail sales tax is due. The equipment is used to move earth to facilitate the main purpose which is to bury refuse. The primary activity is the movement of earth and even though there may be a hauling component to it, the activity is considered a retail sale.