



Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

NUMBER: 3054.2009

ISSUE DATE: February 2, 2009

Sales to Nonresidents of Jurisdictions Imposing a Sales Tax of Less than Three Percent

RCW 82.08.0273 provides an exemption from the retail sales tax to certain nonresidents of Washington for purchases of tangible personal property *for use outside this state*. This statutory exemption is available only to residents of states other than Washington, United States possessions, or Canadian provinces when the jurisdiction does not impose a retail sales tax of three percent or more.

The statute specifically provides that sellers are not required to make tax-exempt sales to nonresidents. However, sellers who choose to make tax-exempt sales must meet the requirements provided below under "Instructions to Sellers."

Eligible nonresidents

As of January 31, 2008, only residents of the following states, possessions, and provinces of Canada qualify:

Alaska	American Samoa	Alberta
Colorado	Commonwealth of Northern Mariana Islands	New Brunswick
Delaware	Guam	Newfoundland and Labrador
Montana	Virgin Islands	Nova Scotia
New Hampshire		Northwest Territories
Oregon		Nunavut
		Quebec
		Yukon Territory

Please note that residents of Idaho and of the Province of British Columbia do not qualify for the exemption.

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

To inquire about the availability of receiving this document in an alternate format for the visually impaired or language other than English, please call (360)705-6715. Teletype (TTY) users please call 1-800-451-7985.

Eligible and ineligible sales

The law provides exemption from the tax only with respect to:

1. Sales of tangible personal property,
2. For use outside Washington,
3. To persons who can satisfactorily establish nonresident status,

Thus, the exemption does **not** apply with respect to charges for services that are included within the definition of the term "sale at retail." This includes, but is not limited to, services such as:

- Lodging at hotels or motels.
- Repair services.
- Laundry or dry cleaning services.
- Automobile towing or parking.
- Amusement and recreational activities such as golf, bowling, and charter fishing.
- Personal services such as tanning, tattooing, and dating services.
- Abstract, title insurance, or escrow services

The exemption also does **not** apply to sales of articles substantially used or consumed within Washington. This includes, but is not limited to sales of:

- Meals or refreshments prepared for immediate consumption.
- Articles to persons in the military stationed within Washington.
- Articles to nonresident students attending schools in this state.
- Articles to any other nonresident temporarily residing in Washington.

To receive this exemption, the purchaser must present evidence of their place of residence to the seller at the time of purchase as provided below.

Instructions to sellers

Sellers making exempt sales to eligible nonresidents must:

1. Examine one piece of identification that establishes proof of nonresidency. The identification must be a valid driver's license issued by the jurisdiction in which the out-of-state residency is claimed or a valid identification card issued by the out-of-state jurisdiction. The identification must A) bear the photograph of the holder B) show the holder's residential address, C) identify the holder's name, and D) be issued for the purpose of establishing residency.
2. Maintain a record of the type of documentation accepted as establishing nonresidency in (1) immediately above, including identification numbers, expiration dates, the purchaser's name, and the purchaser's state of residency.
3. Record the documentation accepted as establishing nonresidency on the invoice or other written evidence of sale and retain the information or maintain a legible photocopy of the documentation establishing nonresidency as part of the seller's accounting records for the statutory period of five years (refer to RCW 82.32.070). In the case of a seller making cash sales without issuing

invoices (for example, retail hardware stores) and maintaining a log, such a log must identify the date and amount of sale, and the information described in (2) immediately above or in the case of corporate nonresidents the corporate nonresident permit number.

4. Presume that the item being sold will be used in Washington and is subject to retail sales tax if the purchaser requests the seller to deliver the merchandise to a Washington address. This presumption may be overcome if the purchaser gives the seller a signed written statement explaining the reason for delivery to a Washington residence and a specific statement indicating the item will not be used in Washington.

When making sales to nonresident corporations (see "Corporate Nonresidents," below) the seller must examine the corporate nonresident permit issued by the Department to make certain that it is valid during the period of the sale and that it is issued to the purchaser. In lieu of requirements (1) and (2) above, the seller must record the permit number and retain that information in accordance with the options outlined in (3) immediately above as part of the seller's accounting records for the statutory period of five years (refer to RCW 82.32.070).

It is important that sellers follow these instructions. RCW 82.08.0273 provides that a seller who makes sales without collecting retail sales tax is personally liable for the tax if the sale was made to a nonqualifying person or the records are not maintained as required.

The law also contains specific retail sales tax exemptions for sales of certain types of property to nonresidents. These include sales of motor vehicles and trailers (RCW 82.08.0264 and WAC 458-20-177), watercraft (RCW 82.08.0266 and WAC 458-20-238), and farm machinery or implements (RCW 82.08.0268 and WAC 458-20-239). The conditions and requirements for exemption with respect to these sales remain unchanged.

When completing the Tax Return, persons making exempt sales to qualifying nonresidents must include the amount of these sales in the gross amount reported in column 1 on the lines for both retailing B&O tax (Code 02) and retail sales tax (Code 01). The amount of the exempt sales is deducted in column 2 on the retail sales tax line (Code 01). The amount of the deduction must be identified on the deduction detail page under "Retail Sales Tax" as "Qualified Nonresident Sales" (I.D.0123). Please note that there is no comparable deduction on the Retailing B&O tax line (Code 02) because the law does not provide a comparable B&O tax deduction.

Corporate nonresidents

The Department of Revenue issues "corporate nonresident permits" upon request to qualifying corporations. A nonresident corporation must be incorporated in one of the states, possessions, or provinces of Canada identified above to qualify for a permit

Nonresident corporations wishing to obtain a corporate nonresident permit should contact the Department by calling (360) 902-7180 or by writing:

Taxpayer Account Administration
Post Office Box 47476
Olympia, Washington 98504-7476

Excise Tax Advisory
Number: 3054.2009
2009

Date: February 2,

For further assistance

If you have further questions about making tax-exempt sales to eligible nonresidents, please contact the Department of Revenue at:

Telephone Information Center: 1-800-647-7706

Taxpayer Information and Education Section
Post Office Box 47478
Olympia, Washington 98504-7478

Internet address: <http://dor.wa.gov>
