



Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

NUMBER: 3067.2009

ISSUE DATE: February 2, 2009

Business & Occupation Tax: Contract Assignments

When prime contractors assign all or portions of the work contracted for to a subcontractor, which one is subject to imposition of business and occupation (B&O) tax?

When a prime contractor (ABC) assigns a contract to a subcontractor (XYZ), under an agreement strictly between themselves, ABC retains contractual responsibility to the customer and is subject to the B&O and retail sales (if applicable) taxes measured by the gross contract price. In such a case, the XYZ is also subject to the B&O tax measured by the gross price for the work performed under the subcontract.

These pyramiding features of the B&O tax are applicable in all cases of contract assignments except the following: If the customer is a party to the assignment, and relieves ABC of all contractual liability, then XYZ is taxable as the prime contractor and ABC is excused.

As indicated in WAC 458-20-170, prime contractors are taxable under the retailing classification, and subcontractors under the wholesaling classification upon their gross contract prices.

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.