



# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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## **Deductibility of Interest Received on Investments or Loans Primarily Secured by First Mortgages or Trust Deeds on Nontransient Residential Properties**

RCW 82.04.4292 allows the following deduction from the measure of the business and occupation tax:

By those engaged in banking, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties;

For the interest to be deductible, the investments or loans must be:

- (1) Primarily secured by first mortgages or trust deeds on
- (2) Nontransient residential properties

There are three types of nontransient residential property: (1) Property zoned for residential use with a residence located on it; (2) Property zoned for residential use without a residence located on it; but there is a commitment or requirement on the borrowers to construct nontransient residences thereon; and (3) property not so zoned but with a residence located on it.

Any investment or loan primarily secured by property of types (1) and (2) will qualify the interest earned for the deduction. In situations involving property of type (3), where the value of a residence and the value of the property are lumped together for purposes of a loan, the value of the residence must exceed that of the property in order for the deduction to be applicable. If land zoned for residential use is undeveloped and there is no commitment of requirement on the borrower to develop the property, then the loan will not qualify for the deduction.

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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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Based on the decision in *Lacey Nursing v. Department of Revenue*, 128 Wn.2d 40, 53, 905 P.2d 338 (2000), "nontransient residential property" includes but is not limited to:

Single family residences (one to four units)

Apartments

Nontransient trailer park sites

Construction loans for residential property including nontransient trailer park sites.

The term does not include:

Permanent care nursing homes (occupants normally stay for more than 30 days)

Permanent care convalescent homes (occupants normally stay for more than 30 days)

Hotels

Motels

Transient apartments (under 30 days)

Churches

Neither of the above lists is meant to be exclusive.

Property used for both residential and business purposes shall not be considered nontransient residential property if that part of the value of the property attributable to the business use exceeds 20 percent of the total value of the property.