

# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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## **Agricultural Burning Exemption (Prior to July 1, 2005)**

This excise tax advisory explains how to determine whether equipment is used “more than half of the time” in an activity qualifying for the agricultural burning exemption provided by RCW 82.08.840 and 82.12.840. It also explains how the review period is established and how the value of the equipment is determined.

**Note:** These guidelines pertain only to the agricultural burning exemption **before** the law change effective July 1, 2005.

### ***Majority Use Requirement***

To qualify for the agricultural burning exemption, the machinery, equipment, or structure must be used more than half (50%) of the time:

- A. For gathering, densifying, processing, handling, storing, transporting, or incorporating straw or straw-based products that results in a reduction in field burning of cereal grains and field and turf grass grown for seed; or
- B. To decrease air emissions resulting from field burning of cereal grains and field and turf grass grown for seed.

### ***Soil preparation: How do you distinguish between qualifying and non-qualifying activities?***

Post-harvest activities, such as straw or residue removal, plowing, and discing are qualifying activities provided the land was used to grow a cereal grain or field and turf grass grown for seed during the immediately preceding harvest cycle.

**Tilling Equipment:** In tilling the land after harvest, if the tilling equipment is used only once between harvest and planting, that use will be considered a qualifying activity. If the tilling equipment is used more than once, the last pass of the tilling equipment immediately preceding planting of a new crop will be considered a non-qualifying activity (soil preparation).

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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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The Department will accept that the first pass of tilling equipment after harvest takes more time than subsequent passes with the same equipment. Thus, in the case of a two discings of qualifying cropland between harvest and planting, presuming the same acreage each time, total use will satisfy the “more than half of the time” requirement of the statute. (Refer to the following matrix.)

| Crop rotation                       | 1st pass of tilling equipment | Intermediate passes (if any) of tilling equipment | Last pass of tilling equipment immediately preceding planting | Is the tilling equipment eligible for exemption? |
|-------------------------------------|-------------------------------|---|---|--|
| Qualified Crop to Qualified Crop    | Qualifies                     | Qualify   | Does not qualify  | Yes, even if no intermediate passes              |
| Qualified Crop to Nonqualified Crop | Qualifies                     | Qualify   | Does not qualify  | Yes, even if no intermediate passes              |
| Nonqualified Crop to Qualified Crop | Does not qualify              | Do not qualify                                    | Does not qualify  | No   |

The Department will, on a case by case basis, consider other evidence provided by a farmer to determine whether a different threshold is appropriate.

**No-Till Drill:** The use of a no-till drill to plant through residue of a qualified crop is a qualifying activity, even if used to plant a non-qualified crop. Conversely, the use of a no-till drill to plant through residue of a non-qualified crop is a non-qualifying activity.

**Tractor:** In the case of a tractor used to pull tilling equipment (or a no-till drill), the same presumptions as described above will apply for purposes of determining whether the tractor is used “more than half of the time” in a qualifying activity. The time the tractor is used for other qualifying activities (e.g., pulling a trailer used to haul wheat straw) and non-qualifying activities (e.g., pulling a rod weeder) must also be included in the calculation.

***How is the “more than half the time” requirement measured?***

Use of equipment must be measured in terms of “time.” Thus, hours of use for qualifying and non-qualifying activities are to be used as the basis for determining if the requirements of the statute are satisfied. Without specific information detailing the hours of use by each piece of equipment for each activity and for each type of cropland, the Department will consider alternative records, from which “time” can be projected with reasonable accuracy. These records could, for example, include production records such as bale counts, if hours of use can be reasonably determined from those records. The use of alternative information should be supported by some type of records such as crop records from farm service agencies or crop insurance records.

***What review period is to be used?***

The farmer must continue to use the eligible equipment during each calendar year to qualify and retain the exemption from use tax. A farmer may elect to use a twelve-month period that coincides with a crop cycle to determine if equipment satisfies the “used more than half the time” requirement of the statute. If such a twelve-month period is used, it must be used for all equipment for which the exemption is claimed. Once an election is made, the farmer may not change without obtaining approval from the Department.

If a particular piece of equipment was purchased or sold during a year so that it was not available for use during the entire calendar year, the farmer may elect to determine eligibility using the portion of the year during which the equipment was owned or may use a twelve-month period beginning with the date of purchase of a equipment or ending with the date of sale of a equipment. Use tax is due on equipment that has not been “used more than half the time” in a qualifying manner and on which retail sales or use tax has not been paid.

***If it is determined that use tax is due, how will the value of used equipment be determined?***

The value of a piece of machinery or equipment subject to use tax is its fair market value at the time of first use within the review period during which the exemption cannot be maintained. Because the farmer will not know until the close of the period whether the usage met the exemption requirements, use tax is due and should be reported at the end of the review period. The taxable value of the piece of machinery or equipment is the value at the time of first use within the review period.

The Department will accept independent publications containing values of comparable machinery and equipment if those values are generally accepted in the industry as accurately reflecting the value of used machinery and equipment. In the absence of such a value, the Department will accept a value using a straight-line depreciation method over the useful life established by the Internal Revenue Service for regular income tax purposes.

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