



Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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Public Road Construction -- Off-Site Activities

What is the proper tax classification for gross income received from altering or improving tangible personal property that is later transported to a public road construction site for installation there?

RCW 82.04.050(8) excludes from the definition of a retail sale, charges for labor and services rendered in respect to the building or improving of a public road or associated facilities. Instead, these activities are taxed as public road construction under RCW 82.04.280(2). However, only those persons who actually build or improve roads, bridges, and other qualifying facilities are properly classified as public road contractors. Persons who merely sell material to others who subsequently use it in building public roads are not themselves public road contractors. The same is true of persons that prepare material for those who use it in public road construction.

Public road contractors are consumers of materials they incorporate into a public road. Thus, altering or improving tangible personal property for a public road contractor that occurs away from the job site is properly classified as retailing for B&O tax purposes and is subject to retail sales tax.

For example, assume that Steele, Inc. contracts with a public road contractor to receive, sandblast, prime, and paint structural bridge steel at Steele's plant. After completing these services, the structural bridge steel is sent to the bridge construction site where it is erected by the contractor. However, because Steele, Inc. is not responsible for incorporating the steel into the bridge, Steele is not a public road contractor. Steele is altering or improving tangible personal property of or for a public road contractor. Steele's charge for its sandblasting, priming, and painting services is a retail sale. Steele is required to collect and remit retail sales tax from the public road contractor.

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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