



# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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NUMBER: 9001.2009

ISSUE DATE: July 24, 2009

## Digital Products – General Implementation

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**Background:  
What the bill  
does and initial  
implementation**

*What the bill does*

Engrossed Substitute House Bill (ESHB) 2075, AN ACT Relating to the excise taxation of certain products and services provided or furnished electronically, takes effect July 26, 2009. The law continues the existing tax treatment of digital products in some areas, creates several newly-defined classes of digital products in others, and changes how some of these products are taxed.

*Summary of implementation process*

The Department of Revenue (Department) has decided to implement ESHB 2075 in a phased process. In the first phase, the Department will issue guidance on the core digital products of music, books, videos and online games. As more information is obtained, the Department will issue additional guidance. During this period, taxpayers will be expected to make a good faith effort to comply with this guidance as it is issued by the Department.

*Challenges in implementation*

The new law poses certain challenges in implementation.

- Some of the concepts in the law are new and determining their application in individual circumstances has proven challenging for taxpayers and the Department of Revenue (Department).
- Determining the proper tax treatment of many of the varied business practices used in electronic commerce requires detailed and complex analysis before some of the general guidance taxpayers need can be made available.

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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.

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

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**Series of excise tax advisories on Digital Products**

Therefore, to avoid confusion and unreasonable burden for taxpayers, the Department will use a phased implementation process that provides progressive guidance to taxpayers.

- The Department will provide guidance in phases to taxpayers by issuing a series of excise tax advisories (ETAs) to explain the implementation process and provide as much guidance to taxpayers as soon as possible.
- The Department will issue guidance immediately for much of what is contained in ESHB 2075. These topics include sales of digital music, digital books, digital videos, and online games transferred electronically.
- ETAs providing guidance on online advertising and digital product storage will be issued soon.
- ETAs on the general analysis employed to determine taxability, exceptions, exemptions, and sourcing will also be issued soon, providing as much guidance in those areas as possible at this time.

***Taxpayer Comments***

Taxpayers that wish to comment on issued excise tax advisories may do so through the link provided for ETA feedback on the Department's web page at <http://dor.wa.gov/digitalproducts>.

***ETA Updates***

These initial excise tax advisories will be updated and supplemented as the Department gathers additional information. The excise tax advisories will eventually be replaced by a rule adopted under the Administrative Procedure Act, which will allow additional opportunities for stakeholder input.

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**Good faith implementation process**

The Department will work with taxpayers that the Department finds to have made a good faith effort to comply with the guidance issued by the Department to bring them into compliance with ESHB 2075 without adverse consequences.

- Taxpayers will be expected to comply with guidance from the Department as it is published.
  - The Department anticipates that this practice will continue until comprehensive guidance is adopted through excise tax advisories, a final rule, and/or legislative clarifications.
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**Ruling requests**    ***When to request a ruling***

The Department expects taxpayers to request a ruling on the taxpayer's specific circumstances if:

- a taxpayer is unclear if its activities fall under the new law or the Department's excise tax advisories; or
- a taxpayer believes it needs additional time to make systemic changes required to collect retail sales tax.

***How to request a ruling***

Rulings may be requested through the Department's web page at <http://dor.wa.gov/digitalproducts> ("Send us a question").

***Rulings are binding***

The taxpayer is responsible for following these rulings unless or until contrary instructions are provided through a subsequent written ruling, the issuance of additional excise tax advisories, amendment/supplement to an excise tax advisory, or adoption of a rule with different provisions.

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**Stay updated  
with changes**

Because this process will be implemented over time, taxpayers are expected to monitor guidance provided that may impact them by:

- Visiting the Department's Digital Products web page (<http://dor.wa.gov/digitalproducts>); and
- Signing up for the digital products listserv through a link on the web page to receive updates by e-mail.

***Note: All taxpayers, including those that have obtained prior written rulings, are responsible for following updated guidance as it is provided.***

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