

# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3217.2020

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## Tax Exemption for Constructing New Buildings for Aerospace Manufacturing

### Background and Purpose

The purpose of this Excise Tax Advisory (ETA) is to clarify the scope of the sales and use tax exemptions in RCW 82.08.980 and RCW 82.12.980.<sup>1</sup> These provisions provide exemptions for the construction of new buildings used to manufacture commercial airplanes, fuselages of commercial airplanes, or wings of commercial airplanes.

In 2014, the Department issued a Special Notice summarizing the exemption as amended by Engrossed Substitute Senate Bill 5952, Chapter 2, Laws of 2013, 3d Special Session. That Special Notice included language that might be interpreted as an expansion of the exemptions to “new parts” of existing buildings. This ETA clarifies that the RCW 82.08.980 and RCW 82.12.980 exemptions do not apply to charges for (1) constructing additions to existing buildings or (2) remodeling existing buildings.

### Application of ETA

For projects commenced prior to July 1, 2020, and involving an addition to an existing building, the Department will accept a taxpayer’s claim for exemption reported on an original excise tax return covering a period prior to that date if the taxpayer made a good faith effort to comply with the reporting requirements and met all other statutory requirements. The Department will not issue refunds for taxes validly paid.

### Tax Exemption

#### 1. Retail sales and use tax exemptions for constructing new buildings

<sup>1</sup> The use tax exemption in RCW 82.12.980 references the eligibility requirements, conditions, and definitions of the sales tax exemption in RCW 82.08.980. See RCW 82.12.980(2).

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General tax information is available on our website at [dor.wa.gov](http://dor.wa.gov).

Questions? Complete the online form at [dor.wa.gov/communications](http://dor.wa.gov/communications) or call 800-647-7706. If you want a binding ruling from the Department, complete the form at [dor.wa.gov/rulings](http://dor.wa.gov/rulings).

## for Aerospace Manufacturing

RCW 82.08.980 and RCW 82.12.980 provide retail sales and use tax exemptions to manufacturers that cover charges for constructing new buildings used to manufacture the following:

- Commercial airplanes;
- Commercial airplane fuselages; or
- Commercial airplanes wings.

RCW 82.32.550 defines “commercial airplane” as having its ordinary meaning, which is an airplane certified by the federal aviation administration for transporting persons or property, and any military derivative of such an airplane.

The exemption also applies to construction charges for new buildings, or parts of new buildings, used for the storage of raw materials or finished product that are used primarily in the manufacturing of commercial airplanes, commercial airplane fuselages, or wings of commercial airplanes. See [RCW 82.08.980](#).

RCW 82.08.980 and RCW 82.12.980 exempt the following charges from sales and use tax:

- Labor and services rendered in respect to the constructing of new buildings.
- Tangible personal property that is incorporated as an ingredient or component during the course of construction, *for example*, materials that are incorporated into the new building.
- Labor and services rendered in respect to installing building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b), the manufacturer’s machinery and equipment sales tax exemption.

### **2. Exemption also available to port districts, political subdivisions, or municipal corporations**

The retail sales and use tax exemption is also available to port districts, political subdivisions, or municipal corporations constructing new buildings to lease to manufacturers engaged in the manufacturing of commercial airplanes or fuselages or wings of commercial airplanes.

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## Limitations

### **1. Additions to existing buildings do not qualify for the exemption**

RCW 82.08.980(1)(a) provides that retail sales tax does not apply to charges for labor and services rendered in respect to the constructing of *new buildings*, provided the charges are made to a manufacturer engaged in the manufacturing of commercial airplanes or the fuselages or wings of commercial airplanes. An addition to an existing building does not qualify as construction of a “new building.”

The phrase “buildings or parts of buildings” in RCW 82.08.980(4) merely clarifies that charges for labor and services are exempt when they are charges for constructing a new building or part of a new building that is used to manufacture commercial airplanes, fuselages, or wings, including new buildings or parts of new

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buildings used for storing raw materials or finished product used in manufacturing commercial airplanes, fuselages, and wings. It does not apply the exemption to additions to existing buildings.

## **2. Remodels of existing buildings do not qualify for the exemption**

For the same reason described above, remodels of existing buildings do not qualify for the exemption. That is, a remodel does not involve the construction of a “new building.”

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### **Examples**

Examples included in this guidance identify a number of facts and then state a general conclusion; they should be used only as a general guide. The tax consequences of all situations must be determined after a review of all the facts and circumstances.

#### **Example 1:**

- **Facts:** Aerospace Manufacturer, Inc. (“AM”) is a manufacturer of commercial airplanes. AM is expanding its growing business and hires contractors to construct a large addition to its existing manufacturing facility.
- **Result:** The contractors’ charges for construction are not exempt from sales tax under RCW 82.08.980 because the construction being performed by the contractors is on an existing building rather than a new building or part of a new building.

#### **Example 2:**

- **Facts:** Commercial Fuselages & Wings, Inc. (“CFW”) is a manufacturer of commercial airplane fuselages and wings. CFW is remodeling its existing facility to include an expansive storage area for raw materials and finished products.
- **Result:** CFW’s construction charges for remodeling of the facility are not exempt from sales tax under RCW 82.08.980 because the charges are for labor and services rendered in respect to remodeling an existing building and not for constructing a new building or part of a new building.

#### **Example 3:**

- **Facts:** AM hires contractors to construct a new warehouse building for its new location in Washington. The new warehouse building will be used for the storage of raw materials and finished products used in the manufacturing of commercial airplanes.
  - **Result:** The contractors’ charges for their labor and services are eligible for the RCW 82.08.980 exemption because the construction being performed by the contractors is on a new building.
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**Example 4:**

- **Facts:** CFW purchased a robotic warehouse door for a new warehouse building CFW is constructing. The new warehouse will be used to store raw materials used in CFW's airplane wing manufacturing operations.
- **Results:** The purchase of the door is eligible for the exemption in RCW 82.08.980 because the door will be incorporated into the new building.

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**Reporting and  
Compliance  
Requirements**

The sales tax exemption is available only when the buyer provides the seller with a properly completed "Buyer's Retail Sales Tax Exemption Certificate" at the time of purchase. The exemption certificate is available at <https://dor.wa.gov/> under "[Forms & publications](#)". The seller must retain a copy of the certificate for the seller's files pursuant to RCW 82.08.980(2).

The RCW 82.08.980 and RCW 82.12.980 exemptions are tax preferences subject to additional reporting requirements. See [RCW 82.32.808](#). A business claiming the exemption is subject to all the requirements of chapter 83.32 RCW and must electronically file a complete [Annual Tax Performance Report](#) with the Department of Revenue by May 31 of the year following any calendar year in which a person becomes eligible to claim the tax preference (answer the questions required for the "Aerospace Manufacturing Site Sales & Use Tax Exemption"). See [Special Notice Tax Incentive Reporting Simplified](#); [RCW 82.32.534](#).

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