



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

NUMBER: 132.08.197

CONVERSION DATE: July 1, 1998

This ETA is cancelled effective January 29, 2009. This ETA is no longer needed as RCW 82.08.050(10) explains that it is the Department's discretion whether or not to proceed directly against the buyer for collection of the sales tax.

SALES TAX LIABILITY OF A SELLER ON BUYER'S REFUSAL TO PAY

Issued August 5, 1966

Is a seller personally liable to the state for the payment of a Sales Tax when he cannot collect the Sales Tax from his buyer?

The taxpayer, an electric company, was assessed a Retail Sales Tax upon the gross amount of a contract for the construction of an underground telephone system for a telephone company. Because of a disagreement as to the contract provisions the telephone company refused to pay the Sales Tax upon the gross contract price, claiming that the contract required the taxpayer's bid to include all taxes.

Since a seller is merely collection agent for the state with respect to the Retail Sales Tax, the taxpayer requested that under the circumstances of the case it be relieved of its obligation to effect collection because the buyer had refused payment of the tax. The taxpayer noted that under RCW 82.08.050 the Commission could, in its discretion, proceed directly against the buyer for collection of the tax where a buyer has failed to pay to the seller the tax imposed by law. As an alternate proposal, the taxpayer requested that the assessment be held in abeyance pending the outcome of a suit which the taxpayer would institute against the telephone company for the amount of the tax.

The Tax Commission held that its general policy was not to relieve sellers of their obligation to collect the tax from buyers since the best interests of the state required that sellers be held personally liable for the amount of the tax. The Commission further noted that this was the expressed legislative intent of RCW 82.08.050.

In this case, the Commission noted the uncertainty of the length of time which would be necessary to settle the legal dispute between the parties as well as the uncertainty of success. Therefore, the taxpayer was liable for the Sales Tax as a seller and no action for collection would be taken against the buyer under RCW 82.08.050.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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