



# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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**This ETA is cancelled effective April 26, 2010. This document is no longer needed because the statute was amended by ESSB 6170 (chapter 469, Laws of 2009) to specifically provide that health services are always deemed to contribute to the accomplishment of a requirement of a clean-up project undertaken by the United States Department of Energy.**

## **Occupational Medicine Services and the Preferential B&O Rate under RCW 82.04.263**

RCW 82.04.263 provides a preferential business and occupation (B&O) tax rate for persons engaged in the business of cleaning up radioactive waste and other byproducts of weapons production and nuclear research and development for the United States or its instrumentalities. For the purposes of the preferential rate, “cleaning up radioactive waste and other byproducts of weapons production and nuclear research and development” means the activities of handling, storing, treating, immobilizing, stabilizing, or disposing of radioactive waste, radioactive tank waste and capsules, nonradioactive hazardous solid and liquid wastes, or spent nuclear fuel; spent nuclear fuel conditioning; removal of contamination in soils and ground water; decontamination and decommissioning of facilities; and activities integral and necessary to the direct performance of cleanup.

WAC 458-20-190(9) explains that to be considered an activity integral and necessary to the direct performance of cleanup, the activity must be directly connected to and essential for the furtherance of the activities described above. “Directly connected to and essential for” means that there is both a sequential relationship and a necessity relationship between the described direct cleanup activities and the activities claimed to be integral and necessary to those activities. The “sequential relationship” means that the activity directly precedes, directly follows, or is concurrent with the activity in question. The “necessity relationship” means that the activity must take place in order for the direct cleanup to take place. In other words, the activity must be more than just highly desirable; it must be indispensable to the direct cleanup.

The preferential tax rate under RCW 82.04.263 applies whether the person performing these activities is a general contractor or subcontractor. Qualification for the tax classification is based solely on the activity performed, and not on the status of the contractor.

Occupational medicine services involve evaluating and screening cleanup workers at the time of hiring and when their job responsibilities change as well as annual exams and exit exams when they end their work at Hanford. The occupational health provider monitors ill or injured workers, and conducts general health evaluations for workers after they perform cleanup activities.

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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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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

Prior to any government or contract employee performing any cleanup work, there are multiple activities that must first be accomplished, such as identifying what potential hazards exist, establishing the necessary personnel protective equipment required, and ensuring that the employees scheduled to perform the work are both mentally and physically qualified. Each employee is required to obtain the necessary medical clearance from the occupational medicine provider prior to performing any cleanup activity. Employees are also required to obtain periodic medical surveillance to maintain their qualification to continue performing the cleanup work.

These occupational medicine services are directly connected to and essential for cleanup services because they have both a necessity relationship and a sequential relationship to the cleanup performed by the government employees and prime contract workers.

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