



# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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**This ETA is cancelled effective September 14, 2015. The issues addressed in this ETA have been incorporated into revised WAC 458-20-108, which became effective August 21, 2015.**

## Patronage Dividends of Cooperative Associations

A patronage dividend is the distribution of a member's share of the profits of a cooperative association based on the quantity of purchases made by the member. The amount of a patronage dividend (rebate or refund) is determined by (1) the expenses of doing business, (2) the volume of sales to other members, and (3) the proportion of business the specific member has conducted with the cooperative.. A patronage dividend determined in this manner is simply a redistribution of the cooperative's "profit," even though the cooperative may refer to accounting mechanisms such as ""tentative" or "delayed" invoices, or to "deferred discounts."

### 1) Patronage Dividends and the Robinson – Patman Act

Assume a cooperative corporation comprised of several franchise dealers sets up the corporation to allow for the payment of patronage dividends in order to comply with the Robinson-Patman Act (15 U.S.C. §§ 13a, 13b, and 21a). This federal act prohibits discrimination in rebates and discounts, but allows a cooperative association to return its net earnings from trading operations in proportion to purchases each member has made from or through the association. Can the patronage dividends be deducted as a discount?

NO. In this case, the patronage dividend is actually a distribution of the cooperative corporation's profits. Even if initial invoices sent to members are referred to as tentative patronage dividends or a similar label, it does not change the payments from a distribution of corporate earnings to a discount. A patronage dividend given under those circumstances is not a deductible discount because the discount was not provided as a part of the sale of a particular article.

### 2) Patronage Dividends provided as refunds per the terms of an association's bylaws

Assume a nonprofit cooperative association makes sales of equipment to both members and nonmembers. Under the terms of its bylaws, the cooperative is organized and required to sell such products to its members at cost. However, during the year the merchandise is sold to members at the normal or usual competitive prices. Then at year-end, the volume of business done with each member is

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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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used to issue each member a rebate or refund based on a proportionate share of net profit. Can the nonprofit cooperative take these patronage dividends as a valid deduction for discounts?

NO. Patronage dividends paid out in this manner are not discounts of the sale price and are not bona fide price reduction for specific items sold to the members.

Patronage dividends do not qualify as bona fide price reductions. They do not reduce the measure of the selling business and occupation tax (wholesaling or retailing) or retail sales tax.