



Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

NUMBER: 3157.2009

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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 information technology and computer support 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.

Information Technology 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. If the predominant nature of the total services provided under the contract is integral and necessary to the performance of cleanup, the activity will qualify for the preferential rate.

Information technology services involve, among other things, systems that track the location and movement of solid waste on the Hanford site, tank monitoring and control systems, systems monitoring

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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chain-of-custody controls for the handling of radioactive and hazardous waste samples as they are processed, and designing computer software that identifies waste characterization, creates waste shipment forms, tracks waste shipping manifests, and provides information for other waste data bases. They also involve administrative support systems such as financial systems, human resources systems, and personnel tracking systems.

Examples of systems integral and necessary to performance of cleanup include:

- Waste Tank Cleanup Systems, which support a wide range of processes and work scope surrounding the tanks and the waste contained in them. Tank Farms store highly radioactive liquid waste that was generated during the time that irradiated fuel was processed from weapons production reactors. This waste is a primary clean-up target.
- Environmental Records Management systems that store and track documents that are mandated by contractual and DOE requirements for long term storage of clean-up documentation.
- Laboratory systems track and report on the chemical analysis that is conducted to determine the levels of radioactive material on the cleanup site. These systems are required to determine the types of cleanup needed for the various forms of waste on the site.
- Systems used to track residual waste from areas where spent nuclear fuel rods were stored after they were removed from the plutonium production reactors.
- Environmental monitoring and tracking systems.
- Designing, building, and maintaining custom software for a Hanford contractor involved in the demolition and remediation for low level radioactive waste.

These systems 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.

Examples of systems that are not considered directly integral and necessary to cleanup include:

- Finance systems.
- Human Resources systems.
- Personnel tracking systems.
- Systems designed to provide specific support to DOE applications.

These systems are not directly connected to and essential for cleanup service because, although they are supportive of the work done on the Hanford site, they do not have both a necessity relationship and a sequential relationship to the cleanup performed by the government employees and prime contract workers.
