



State of Washington  
Department of Revenue

# Excise Tax Advisory

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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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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NUMBER: 356.12.211

CONVERSION DATE: July 1, 1998

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**This ETA is cancelled effective January 29, 2009. There is no need for this document as this issue is a straightforward application of law.**

## USE TAX: RENTALS PUT TO PERSONAL USE

Issued June 5, 1970

When, at all times, tangible personal property is available for lease or rental use, but there is evidence of substantial personal use of the property by the owner, is the retail sales tax or use tax owed on the purchase price of the property?

The taxpayer owned a charter boat service. An audit showed that gas tax refunds were made to the taxpayer based on gasoline purchases which were greatly unproportionate to the amount of charter service rendered.

The department held that the use tax was owed on the tangible personal property (boat) despite the claim it was at all times held for rental purposes. Under RCW 82.04.050, the definition of retail sale includes every sale of tangible personal property to all persons irrespective of the nature of their business other than a sale to a person who purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person. Based on an interpretation of this statute, the department has consistently held that a taxpayer who both uses and leases the same article of tangible personal property is subject to the retail sales tax or the use tax based on the purchase price of the property and in addition, is required to collect and report retail sales tax on gross rentals received.

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***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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