

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3048.2009

Issue Date: February 2, 2009

Lease Cancellation Payment

Does a mutually agreed upon but premature termination of a lease of personal property entitle the lessee to a refund of retail sales tax paid on the amount of a settlement agreement?

For example, Joe leases some equipment for five years. After three years, by mutual agreement, the taxpayer and lessor cancel the lease; the cancellation agreement calls for acceleration and payment of 75% of the remaining rental payments

RCW 82.08.010(1) defines "selling price" as "the total amount of consideration, except separately stated trade-in property of like kind ..." The negotiated settlement is consideration arising out of the original lease; it effectively decreases the term of the lease and increases the rental payments for the actual period of use. Therefore, retail sales tax is due to the lessor on the amount paid pursuant to the settlement agreement.

To request this document in an alternate format, visit <http://dor.wa.gov> and click on "contact us" or call 1-800-647-7706. Teletype (TTY) users may use the Washington Relay Service by calling 711.

General tax information is available on our website at dor.wa.gov.

Questions? Complete the online form at dor.wa.gov/communications or call 800-647-7706. If you want a binding ruling from the Department, complete the form at dor.wa.gov/rulings.