

Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3072.2009

Issue Date: February 2, 2009

Rentals of Tangible Personal Property Used Both Within and Without Washington

NOTE: This Excise Tax Advisory applies to rental transactions appropriately recognized for Washington State tax purposes on or before June 30, 2008.

How do business and occupation and retail sales taxes apply to leases or rentals of tangible personal property put to use by the lessee both inside and outside of Washington State?

Leases and rentals of tangible personal property are defined by statute as being "sales at retail" (see RCW 82.04.050). The controlling factor which determines whether Washington State possesses taxing jurisdiction over such lease or rental income is the physical location of the property in this state during the term of the lease. The taxable incident takes place in this state when the property is "used" in this state by the lessee. Conversely, when leased tangible personal property is used by the lessee outside Washington State, this state does not have jurisdiction to tax that use. (See *Longview Tugboat Company v. State* 64 Wn. 2d 323. (1964))

Thus, persons who lease or rent tangible personal property for use both within and without Washington are taxable upon that portion of gross income derived from its use by the lessee in Washington, providing accurate records are maintained to substantiate the amount of "use" claimed outside this state.

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