

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3112.2011

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This ETA applies to periods prior to June 1, 2010 and after December 1, 2010. For the period of June 1, 2010 through December 1, 2010, 2ESSB 6143, Part V, limited the preferential B&O tax rate for processors of perishable meat to specific activities and products. Refer to 2ESSB 6143, Part V, for additional information about these limitations.

Processing Perishable Meat Products

This excise tax advisory (ETA) explains who is entitled to the preferential business and occupation (“B&O”) tax rate based on the Washington State Supreme Court decision, *Agrilink Foods, Inc. v. Washington State Department of Revenue*, 153 Wn.2d 392 (2005). The scope of this ETA is limited to manufacturers and sellers of perishable meat products sold at wholesale.

Background

Washington law (RCW 82.04.260) provides a preferential B&O tax rate for every person engaging within this state in the business of slaughtering, breaking, and/or processing perishable meat products and/or selling these products at wholesale, commonly referred to as the “slaughter/breaking” B&O tax classification.

On January 13, 2005, the Washington State Supreme Court in the *Agrilink* case ruled that the slaughter/breaking B&O tax rate is available to processors of perishable meat where the person produces canned products, if the person starts with a perishable meat product. There is no requirement that the finished product remain perishable after processing. **As a result of this court decision, persons processing a perishable meat product into a nonperishable finished product may qualify for the preferential slaughter/breaking B&O tax rate.**

What is a “perishable meat product”?

“Meat product” refers to a product derived in whole or in part from any part of an animal carcass, except products derived from seafood and insects. It includes only products that are intended for human consumption as food or animal consumption as feed.

A product having a high risk of spoilage within a period of thirty (30) days without refrigeration or freezing is considered perishable.

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Thus, a “perishable meat product” is a product intended for human or animal consumption derived in whole or in part from an animal carcass having a high risk of spoilage within thirty (30) days without refrigeration or freezing.

Who qualifies for the “slaughter/breaking” B&O tax classification?

In order to qualify for the slaughter/breaking B&O tax rate, a person must either process or sell a meat product that is in a perishable state at the time of processing or selling. Therefore, the rate applies to:

Manufacturers of perishable or nonperishable products

A person who:

- Takes an animal or a perishable meat product (as defined above),
- Processes it (this may include adding one or more non-meat ingredients), and
- Sells the resulting meat product, whether perishable or nonperishable and even if meat is only a component of the finished product, at wholesale.

Buyer/Reseller of perishable meat products

A person who:

- Buys a perishable meat product (as defined above), and
- Sells the perishable meat product at wholesale.

Does an out-of-state manufacturer qualify for the preferential rate?

Yes, a person slaughtering, breaking, or processing perishable meat products outside the state and selling the resulting finished product into Washington is entitled to the preferential rate if all other requirements are met.

Examples:

A person who purchases a perishable meat product from a third party qualifies for the slaughter/breaking B&O tax classification when the same product is sold at wholesale or when the product is processed by the person into a different meat product and sold at wholesale. This processing can include the adding of one or more non-meat ingredients.

A person who purchases tallow or meat meal in a perishable state from a third party qualifies for the slaughter/breaking B&O tax classification when the tallow or meat meal is sold at wholesale or the tallow or meat meal are processed into different meat products and sold at wholesale. It does not qualify if the tallow or meat meal is not purchased in a perishable state because you must **start** with a **perishable** meat product to qualify.

A person who purchases perishable meat products from a third party and manufactures broth, sauces, gravy, corn dogs, chicken pot pies, etc. qualifies for the slaughter/breaking B&O tax classification when these items are sold at wholesale or when these products become ingredients in another meat product and the resulting meat product is sold by the manufacturer at wholesale.

A person who purchases broth, sauces, gravy, corn dogs, chicken pot pies, etc. from a third party qualifies for the slaughter/breaking B&O tax classification only when these products are purchased in a perishable state and:

- Sold at wholesale; or
- Processed into different meat products, which are then sold at wholesale.

