

# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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## Computer Programs: Retail or Service

Are microfilm or microfiche data records producers taxable as retailers or as professional service providers?

Assume MMD produces computerized information retrieval systems designed to provide better data retrieval, indexing, and organization tailored to meet the specific needs of individual clients. The process includes extensive investigation and analysis of a client's data storage and retrieval problems. After the analysis, the client's basic data is placed on microfilm or microfiche and organized so that the client can conveniently access the information through a variety of index sources.

Although extensive analysis is performed before the microfilm or microfiche is produced, MMD charges clients on the basis of the number of sheets of microfilm or microfiche delivered. If the client decides not to order the microfilm or microfiche, MMD does not charge for the analysis. Thus, it is a product, i.e., microfilm or microfiche that is being sold; rather, than the developmental research and investigation.

The sale of microfilm, records, or tapes of reorganized, reindexed, or reclassified data produced through a computer process is taxable as a retail sale of tangible personal property.

This type of process is distinguishable from data processing or computer services such as the computerized production of feasibility studies, cost surveys, and market trend analyses which provide the client with new and useful organized information from raw data gathered by the computer service company. In these instances, the client could not carry out its objective without the work product of the service company.

RCW 82.04.050(2) defines "retail sale" to include ". . . the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the . . ." sale of tangible personal property. In this instance MMD is selling tangible personal property -- the microfilm or microfiche -- to which some service has been rendered in respect to as contemplated by the statute. Because such sales are retail sales, the purchases of "raw" microfilm or microfiche by such sellers are purchases for resale.

Because MMD is a manufacturer of the microfilm and/or microfiche, MMD is liable for the business and occupation tax under the "manufacturing" classification on the basis of the value of the products manufactured (measured by the selling price) regardless of the delivery point. MMD may be entitled to a multiple activities tax credit. See WAC 458-20-19301.

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