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ETA 3208.2018

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## Special Clean Up Jobs Required by Construction, Fires, Floods, and Other Similar Events or Emergencies

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### **Purpose**

This Excise Tax Advisory (ETA) addresses the types of services that are generally considered special clean up jobs subject to the wholesaling business and occupation (B&O) tax or the retailing B&O tax and retail sales tax, and how such services differ from “janitorial services” taxable under the service and other activities B&O tax.

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### **“Janitorial services” defined**

RCW 82.04.050(2)(d) defines “janitorial services” as:

[T]hose cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting[.]

WAC 458-20-172 further clarifies that “janitorial services” include activities performed regularly and normally by commercial janitor service businesses as follows:

[W]ashing of interior and exterior window surfaces, floor cleaning and waxing, the cleaning of interior walls and woodwork, the cleaning in place of rugs, drapes and upholstery, dusting, disposal of trash, and cleaning and sanitizing bathroom fixtures.

Accordingly, activities will constitute janitorial services if the activities involve light cleaning similar to examples identified above and the activity is of a type performed

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ordinarily (regularly and normally) by commercial janitor service businesses as opposed to sporadically.

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**Special clean up jobs not “janitorial services”**

Special clean up jobs are not considered “janitorial services”.

WAC 458-20-172 explains that:

The term "janitorial services" does not include, among others, cleaning the exterior walls of buildings, the cleaning of septic tanks, special clean up jobs required by construction, fires, floods, etc., painting, papering, repairing, furnace or chimney cleaning, snow removal, sandblasting, or the cleaning of plant or industrial machinery or fixtures.

Special clean up job is an activity that is:

- Not ordinarily (regularly and normally) performed by a commercial janitor service business, and
- Necessitated by construction, fire, flood, or similar event or emergency.

Special clean up jobs are not considered “janitorial services” even if they may include as part of the cleanup one or more activities that would otherwise fall within the definition of “janitorial services.”

*Minor cleaning after construction, fire, flood, etc.*

- Minor cleaning after construction, fire, flood or other similar circumstances may still be considered “janitorial services” if the cleaning **only** includes the same type of light cleaning that is properly included in “janitorial services.”
- A cleanup job after such circumstances will not be considered minor if the event that necessitates the cleanup requires more substantial services than the light cleaning ordinarily (regularly and normally) performed by a commercial janitor service. For example, if cleanup after flooding includes any of the following, or similar, more specialized activities, then the service provided will be considered more substantial than janitorial services:
  - Extraction of a significant amount of water (i.e. more than has fully absorbed into the carpet or floor);
  - Removal of odors caused by microorganisms such as mildew and mold;
  - Removal of significant debris;
  - Mold remediation or other disinfecting of affected areas,
  - Repair of walls, ceilings, carpet, flooring, etc., or
  - Replacement or patching of flooring, carpets, carpet pads.

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**Examples**

The following examples identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

**1. Initial construction cleanup and subsequent house cleaning**

**The Facts:**

- ABC Cleaning Service (ABC) provides cleaning services to a construction company that builds and sells speculative residential homes.
- Services are provided initially upon completion of the construction of the home, and weekly cleanings are provided thereafter until the home is sold.
- Services for both the initial cleaning and the weekly cleanings consist of cleaning the entire home, including mopping and vacuuming floors, dusting walls, and cleaning bathrooms and kitchens fixtures. However, ABC's initial cleaning also requires substantial work to clear construction debris and to put the house in a sellable condition.

**The Result:**

- *Initial cleaning:*
  - While ABC's initial cleanup includes some activities listed as typically "janitorial services" ordinarily performed by a commercial janitor service, in these circumstances, the initial cleanup is considered a special cleanup necessitated by the construction.
  - The initial cleaning does not involve only light cleaning ordinarily performed by commercial janitor services, but rather is required only once due to construction and involves activities that are far more substantial and aimed at transforming the home into a not previously existing condition as the final part of the construction process.
  - The initial cleanup is considered a special clean up job subject to the retailing B&O tax and retail sales tax.<sup>1</sup>
- *Weekly cleaning:*
  - The subsequent weekly cleanings are not performed due construction, flood, fire, or similar event or emergency and are performed regularly involving light cleaning ordinarily (regularly and normally) provided by commercial janitor service businesses.
  - The weekly cleanings are "janitorial services" subject to the service and other B&O tax.

**2. Clean up and restoration of damage caused by flooding**

**The Facts:**

- In addition to providing general carpet cleaning services, DEF Services, Inc. (DEF) provides water restoration services in response to a flood or significant water leak.
- For Customer Z, DEF provided its general carpet cleaning service in response to a minor spill. There was no standing water, though liquid had absorbed into the carpet. DEF applied its regular process of applying cleaning agents and hot water on the carpet and extracting the water, dirt and other substances from the carpet.
- For Customer Z, DEF did not need to perform any other services in addition to the general carpet cleaning.

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<sup>1</sup> If this work was instead performed for a general contractor that provided ABC with their reseller permit, the charges for this service would be subject to wholesaling B&O tax and retail sales tax would not apply.

- For Customer Y, DEF provided restoration services that included extraction of a small pool of standing water, cleaning the carpets, and repair of a small section of a wall that was damaged by the water.

**The Result:**

- *Carpet Cleaning for Customer Z:*
  - DEF's service included only regular carpet cleaning that is ordinarily (regularly and normally) provided by commercial janitor service businesses. No additional substantial services were provided.
  - The carpet cleaning for Customer Z is "janitorial services" subject to the service and other B&O tax.
- *Carpet Cleaning for Customer Y:*
  - While the restoration service provided included cleaning carpets, the service also included substantial other activities not ordinarily (regularly and normally) provided by commercial janitor service, including the extraction of a significant amount of water, and repair of water damaged section of wall.
  - The service performed for Customer Y is considered a special clean up job subject to the retailing B&O tax and retail sales tax

**3. Carpet cleaning and repair from flooding sink, appliances or other damage**

**The Facts:**

- GHI Company (GHI) provides carpet cleaning and repairs for multi-family housing complexes.
  - In addition to carpet cleaning, services performed always include at least one of the following: carpet patching and stretching, installation, water damage repairs from a flooding sink, and repair or replacement of walls, ceilings, furniture, fixtures, and other items.
  - Services are performed after a tenant moves out to ready the apartment before another tenant moves in and are provided in response to specific damage caused by the tenant.

**The Result:**

- While general carpet cleaning services are considered light cleaning as the "cleaning in place of rugs", in these circumstances, GHI's activities are more substantial than just cleaning the carpet.
- The additional substantial services that GHI provides are not ordinarily (regularly and normally) performed by a commercial janitor service business, but instead are provided infrequently in response to a sporadic event necessitating significant clean up and restoration.
- The services are special clean up jobs subject to the retailing B&O tax and retail sales tax.

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