



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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SALES TAX NOT TO BE WITHHELD ON PUBLIC WORKS PROGRESS ESTIMATES

Issued November 26, 1973

Are retained percentages on public works contract progress estimates to include the sales tax due?

As a protection to the state and other lien holders, the law requires that a disbursing officer withhold 10% of the contract price of any public works contract in trust for 30 days after acceptance of the completed contract and until the Washington State Department of Revenue certifies that no taxes are due.

Chapter 60.28 RCW specifies:

. . .there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work . . . (Emphasis supplied.)

The term "contract price" does not include sales tax which a seller must collect from a buyer and the sales tax which a contractor must collect as a trust fund for the state does not constitute "moneys earned by the contractor". Thus, public disbursing officers should retain only the statutory percentage of the contract price and not any percentage of sales tax. The contractor is required to pay sales tax on the full amount of each progress estimate, including the retained percentage of his "contract price", and the law does not intend that he be required to temporarily absorb the sales tax burden for which he is merely a collection agent.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

Please direct comments to:
Department of Revenue
Legislation & Policy Division
P O Box 47467
Olympia, Washington 98504-7467
(360) 753-4161 eta@DOR.wa.gov

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