

# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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ETA 3180.2013

Issue Date: September 25, 2013

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## **Warehousing/Reselling Prescription Drug B&O Tax Preference**

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### **Background**

The purpose of this excise tax advisory (ETA) is to clarify the requirements to qualify for preferential tax treatment under RCW 82.04.272.

RCW 82.04.272 provides a preferential B&O tax rate to persons “engaging in the business of warehousing and reselling drugs for human use pursuant to a prescription.” This statute defines “warehousing and reselling drugs for human use pursuant to a prescription” to be:

The buying of drugs for human use pursuant to a prescription from a manufacturer or another wholesaler, and reselling of the drugs to persons selling at retail or to hospitals, clinics, health care providers, or other providers of health care services, by a wholesaler or retailer who is registered with the federal drug enforcement administration and licensed by the Pharmacy Quality Assurance Commission.

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### **Seller and Buyer Requirements**

To qualify for the preferential B&O tax rate, the seller must satisfy all of the Seller Requirements AND the qualifying sale must be made to a buyer meeting at least one of the Buyer Requirements:

#### **Seller Requirements**

To qualify for the preferential B&O tax rate, the seller must satisfy the following requirements:

- Purchase prescription drugs from a manufacturer or wholesaler<sup>1</sup>;
- Warehouse and resell the prescription drugs<sup>2</sup>;
- Be registered with the Federal Drug Enforcement Administration; and

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<sup>1</sup> Direct sales of drugs by the manufacturer do not qualify for the preferential Warehousing/Reselling Prescription Drug B&O tax rate, because the drugs sold were not previously purchased from a manufacturer or wholesaler.

<sup>2</sup> There is no requirement that the warehousing activity occur within Washington.

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- Be licensed by the Pharmacy Quality Assurance Commission (as either a wholesaler or retailer).
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**Buyer Requirements**

A seller qualifies for the preferential B&O tax rate if the seller satisfies all the requirements above and resells the prescription drugs directly to a buyer who is:

- A retailer with a pharmacy facility license or non-residential pharmacy license issued by the Department of Health under RCW 18.64.043 or RCW 18.64.370, respectively; or
  - A hospital, clinic, health care provider, or other provider of health care services.
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