

# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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## **Taxability of Oil and Chemical Spill Cleanup**

Under RCW 82.04.050, "retail sale" includes services in respect to the cleaning of personal property and of existing buildings and structures. Oil or other chemical spill cleanup does not come within that definition when the cleanup is on bare land or water. Because this activity is not included within the definition of a retail sale, it is taxable under the service and other business activities business and occupation (B&O) tax classification under RCW 82.04.290, whether the activity is performed on land or water. Contractors are not required or permitted to report partly under the service and other activities B&O tax classification and partly under retailing B&O tax classification. The service taxable activities include skimming oil off the water, using absorbents to remove oil from land or water, pumping oily water from a vessel and disposing of the waste water, cleaning contaminated fowl or mammals, high pressure washing of the land, moving contaminated soil, and other related activities. These activities are all directly related to the primary activity of cleanup.

Some additional services which may be associated less directly with the cleanup activities are also taxable under the service and other business activities B&O tax classification. This includes, among others, mere consulting services, training services, placing booms around vessels as a precaution, and receiving of a "retainer" by a contractor in order to assure that the contractor or the equipment is available for immediate action if a spill occurs.

### **Cleanup of Buildings and Tangible Personal Property**

When the cleanup of oil and/or chemical spills is of a building or tangible personal property, the activity is a retail sale as defined in RCW 82.04.050. This is distinct from the activities listed above because the structure or item is being cleaned. Retail activities include the removal of chemicals and cleaning of storage tanks, removal of oily water from a vessel and cleaning the residue from the vessel, and removing asbestos from a building.

When the clean involves both the cleanup of buildings and tangible personal property as well as cleanup of bare land and water, the predominant activity determines the proper tax classification.

### **Consumables and Equipment**

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General tax information is available on our website at [dor.wa.gov](http://dor.wa.gov).

Questions? Complete the online form at [dor.wa.gov/communications](http://dor.wa.gov/communications) or call 800-647-7706. If you want a binding ruling from the Department, complete the form at [dor.wa.gov/rulings](http://dor.wa.gov/rulings).

Cleanup Contractors are required to pay retail sales tax to their suppliers for purchases of consumable supplies which are used in cleanup activities. This includes items such as absorbents, chemicals used to disperse the oil, rags, detergents, etc. Contractors are also required to pay retail sales tax on their purchases of any equipment, including the rental of equipment for use by the contractor's employees.

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