Cite as Det. No. 91-260, 11 WTD 423 (1992).

BEFORE THE INTERPRETATION AND APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition For Correction of Assessment of	D E T E R M I N A T I O N No. 91-260
. . .	Registration No. . . . . . . /Audit No. . . .
. . .	Registration No. . . . . . . /Audit No. . . .

[1] RULE 136: B&O TAXES -- MANUFACTURING -- DEFINITION -- COMBINING AND ATTACHING PARTS. The combining and attaching of parts to a precast body in addition to installing the hydraulics and electrical systems into . . . machinery constitutes a manufacturing activity. Accord: Det. No. 87-312, 4 WTD 141 (1987).

[2] RULE 136 & 112 -- RCW 82.04.450(2) -- MANUFACTURING B&O TAX -- VALUE OF THE PRODUCT -- GROSS PROCEEDS OF SALE -- RENTALS. Where the gross proceeds from rental equipment are not indicative of the true value of the equipment being rented, gross rental proceeds should not be used to determine the value of a product for Manufacturing B&O tax. Accord: Det. No. 89-486A, 10 WTD 305 (1990).

[3] RULE 136: B&O TAXES -- MANUFACTURING -- DEFINITION -- REPAIRING. The owner's activity of replacing worn out sorting bars into its rental equipment does not constitute a separate manufacturing activity. The labor and materials applied merely restore or prolong the utility of an existing article of tangible personal property. Accord: ETB 213; Det. No. 89-406, 8 WTD 157 (1989) distinguished.

[4] RULE 193A: RETAIL SALES TAX -- INTERSTATE EXEMPTION & NONCONTIGUOUS STATES EXEMPTION -- DOCUMENTATION -- FREIGHT BILL. A freight bill or invoice issued by an interstate carrier that bills the taxpayer/shipper for

transportation services from a point inside the state of Washington to a point outside of Washington is insufficient documentation to substantiate an interstate or noncontiguous state's retail sales tax exemption.

[5] RULE 102: RETAIL SALES TAX -- PURCHASE FOR RESALE -- RENTAL EQUIPMENT -- OIL AND GREASE. Purchases of grease and oil used to lubricate machinery held exclusively for resale as either inventory or rentals are purchases for resale in the ordinary course of business. Therefore, they are not subject to retail sales tax.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

TAXPAYER REPRESENTED BY: . . .
. . .

DATE OF HEARING: July 10, 1991

NATURE OF ACTION:

Two affiliated taxpayers protest the imposition of additional taxes and interest assessed in an audit report.

FACTS:

Okimoto, A.L.J. -- [Taxpayer A] (. . .) sells machinery to . . . businesses. The taxpayer's books and records were examined by a Department of Revenue (Department) auditor for the period January 1, 1986 through June 30, 1990. An adjusted audit assessment resulted in additional taxes and interest owing in the amount of $ . . . and Document No. . . . was issued in that amount [in February 1991]. The taxpayer has protested the assessment and it remains due.

[Taxpayer B] (. . .) is engaged in a similar business. The taxpayer's books and records were examined by a Department of Revenue (Department) auditor for the period January 1, 1986 through May 30, 1990. An audit assessment resulted in additional taxes and interest owing in the amount of $ . . . and Document No. . . . was issued in that amount [in October 1990]. The taxpayer has protested the assessment and it remains due.

TAXPAYER'S EXCEPTIONS:

[Taxpayer A]

SCHEDULE III: Tax Due on Interstate Sales of Manufactured Goods

In this schedule the auditor assessed manufacturing B&O tax on equipment sold and delivered by the taxpayer to out-of-state customers. The auditor considered the taxpayer's assembly of the [machinery] to be a manufacturing activity and therefore subject to the tax. The auditor described the taxpayer's activity in his report as follows:

> . . . Taxpayer purchases the large precast body and other parts from others. [Taxpayer] then attaches the parts, together with the electrical and hydraulics, to make it a saleable [machine (z)]. This work is performed at [taxpayer]'s manufacturing plant.
>
> . . . [Taxpayer] purchases parts & components from different suppliers - the crushers, screens, feeders, belts, trailers, power plants, & etc. In [taxpayer]'s plant the different components are welded or attached to the trailers to make the portable [machinery (y)]. This includes all parts plus electrical and hydraulics.

The taxpayer disputes that its activity constitutes manufacturing and instead maintains:

> Our business is the sale of equipment components used in the . . . business. The components are ordered from various vendors in a finished condition. They are in turn sold to customers without change by us. The components may be sold individually ... or in a group mounted on a trailer....

In addition, the taxpayer protests the valuation used by the auditor in determining the taxable measure of machinery manufactured in Washington, delivered to an out-of-state customer and rented to that customer. The auditor assessed manufacturing tax on all rental proceeds derived from the manufactured machine in addition to any subsequent proceeds of sale.

The taxpayer describes a typical scenario for rental and sale of a machine as follows:

> The customer takes the machine on short term rental with the option to buy the machine at the end of, or during the rental period, with some of the rental applying toward the purchase price. The customer does not always exercise this option, so the machine is brought back, reserviced and offered to another customer. Eventually, a customer will buy the machine.

The taxpayer argues that the amounts received for rental, plus the eventual sales price will in many cases far exceed the normal sales price of the machine (the amount that should be the basis

for computing the manufacturing tax.) The taxpayer further asks in its petition that:

> If we are deemed to be subject to the manufacturing tax, a system should be devised whereby we would only pay the manufacturing tax on the listed or actual sales price of the machine.

Schedule IV: Tax Due on Sales Tax Reconciliation

In this schedule, the auditor listed all sales tax billed per the numerical invoices. The taxpayer states that its numerical invoices do not provide an accurate sales figure, because many of them have been voided, reversed, or uncollected.

Schedule V: Tax Due on Disallowed Interstate Deductions

In this schedule, the auditor disallowed two interstate deductions because the taxpayer failed to provide sufficient documentation. The taxpayer explained at the hearing that the parts sold on Invoice #2131 and #2934 were shipped to the customer (. . .) at their business location in Canada. In support of this the taxpayer submitted the bill of lading, invoice and customs invoice for #2131 and the export invoice and export declaration for Invoice #2934.

[Taxpayer B]

Schedule II: Tax Due on Interstate Sales of Manufactured Goods

In this schedule, the auditor assessed manufacturing tax on gross proceeds derived from renting or selling [machinery (x)] to out-of-state customers. The auditor considered these items to be manufactured because he observed the taxpayer altering the machines from their original condition by welding or attaching additional sorting bars.

The taxpayer disputes that it manufactured the above machines. The taxpayer states that the machine leased . . . was purchased at auction fully assembled. Similarly, it states that all other [machinery (x)] were purchased from its suppliers fully assembled and complete with all sorting bars. Although the taxpayer concedes that the auditor may have observed the taxpayer's employees installing some sorting bars into its rental machines, it contends that this only happens after the [machines] have been rented and turned back in for repair. The taxpayer explains that sorting bars receive considerable abuse during the operation of the machine and often become bent or disfigured and must be replaced. The taxpayer states that it is this replacement activity that the auditors observed. The taxpayer argues that

the mere replacement of worn parts should only be considered a repairing activity and not manufacturing.

The taxpayer also protests the method of valuation used in determining the taxable measure of machinery manufactured in Washington.

Schedule III: Tax Due on Unreported Sales

Although the taxpayer concedes that these sales were unreported, it states that it has now found additional documentation that shows that some transactions were for resale, some subsequently voided, and some written-off as a bad debt.

Schedule IV: Tax Due on Sales Tax Reconciliation

In this schedule, the auditor listed all sales tax billed per the numerical invoices. The taxpayer states that its numerical invoices would not provide an accurate sales figure, because many of them have been voided, reversed, or uncollected.

Schedule V: Tax Due on Disallowed Interstate Sales

In this schedule, the auditor assessed additional Retailing and retail sales tax on nine sales deducted as interstate for which the taxpayer did not have sufficient documentation. Subsequent to the hearing, the taxpayer submitted additional documentation which will be discussed and ruled upon under the discussions portion of this determination.

Schedule VII: Use Tax

The taxpayer protests use tax being asserted on "grease and oil used in rental and machines for inventory and sale." The taxpayer argues that these items are being purchased for resale in the regular course of business.

ISSUES:

1) Does combining and attaching parts to a precast body in addition to installing hydraulics and electrical systems into [machinery] constitute a manufacturing activity?

2) What is the proper measure of the manufacturing tax to be applied to equipment manufactured in this state for rental outside this state?

3) Does the owner's activity of replacing worn out sorting bars into previously rented rental equipment constitute a separate manufacturing activity?

4) Is a freight bill or invoice issued by an interstate carrier that bills the taxpayer/shipper for transporting a product sufficient documentation to substantiate an interstate or noncontiguous states retail sales tax exemption?

5) Are purchases of grease and oil used to lubricate machinery held exclusively for resale as either inventory or rentals purchases for resale in the ordinary course of business?

DISCUSSION:

[Taxpayer A]

SCHEDULE III: Interstate Sales of Manufactured Goods

[1] RCW 82.04.120 provides that:

> "The term 'to manufacture' embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use. . . ."

In Bornstein Sea Foods v. State of Washington, 60 Wn.2d 169 (1962), the Washington State Supreme Court considered the definition of "to manufacture." It stated:

> We propose to resolve this difficulty by looking at the total process accomplished by the appellant in relation to the statutory definition and prior case law. We think the test that should be applied to determine whether a new, different, and useful article has been produced is whether a significant change has been accomplished when the end product is compared with the article before it was subjected to the process. Bornstein at 175.

The Court further clarified the definition in McDonnel & McDonnel v. State of Washington, 62 Wn.2d 553 (1963) where it stated:

> ... as we stated in Bornstein, the end product... must be compared with the substance initially received by the processor. In making this comparison, consideration should be given to the following factors: among others, changes in form, quality, properties (such changes may be chemical, physical and/or functional in nature), enhancement in value, the extent and kind of processing involved, differences in demand,

> et cetera, which may be indicative of the existence of a new, different or useful substance. McDonnel at 556.

In applying the "significant change" test enunciated by the Court in Bornstein, we have considered the above factors listed by the Court in the McDonnel case. The taxpayer does not dispute that when it originally receives the component parts, the components do not constitute a functioning . . . machine. It is not until the taxpayer combines and welds the component parts together and installs the hydraulics and electrical system that it becomes a saleable . . . machine. We believe that the changes in form and function from unassembled components to a functioning . . . machine is a significant change. It therefore clearly falls within the definition of "to manufacture" for purposes of RCW 82.04.120. As to [machine (y)] and [machine (z)], the taxpayer's petition is denied.

[2] Concerning the proper measure of the manufacturing tax on manufactured rental equipment transferred outside the state, a similar issue was addressed in Det. No. 89-486A, 10 WTD 305 (1990). This case involved an in-state manufacturer of rental instruments that were transferred outside the state. The taxpayer argued that neither the proceeds from its instate nor its out-of-state rentals were indicative of the true value of the instruments being rented and that therefore, the gross proceeds from its rentals should not be used as the measure of the manufacturing tax. In finding that the gross rentals proceeds did not reflect the true value of the article manufactured, we stated:

> The gross proceeds of the taxpayer's individual rentals vary because the number of times one instrument may be rented varies. For example, one instrument may have been rented once, generating $ . . . worth of sales, whereas another instrument may have been rented fifty times generating $ . . . worth of sales. We agree that in such a case, rental proceeds do not reflect the true value of the instruments.
>
> As neither the taxpayer's instate nor the out-of-state rentals are sales which indicate the true value of the instruments, then the gross proceeds from the rentals should not be used to determine "value" for purposes of measuring the manufacturing B&O tax.
>
> Furthermore, the manufacturing tax is imposed on the act or privilege of engaging in business as a manufacturer, not on the activity of selling. We believe a better result is one which allows the manufacturing tax to be determined and paid shortly

> after the manufacturing is completed. This can not be done if the tax is measured on unknown future rental payments.

Accordingly, we find that the gross rental proceeds plus the gross sales proceeds of taxpayer's rental equipment do not reflect the true value of the article manufactured and should not be used to compute the taxable measure of the manufacturing B&O tax. Instead, the taxable value should be computed in accordance with RCW 82.04.450(2) which states in part:

> ...(2) In the above cases the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products:... (Emphasis ours.)

Rule 112 is the lawfully promulgated regulation interpreting this statute and states in part:

> ALL OTHER CASES. The law provides that where products extracted or manufactured are...
>
> (3) Sold under circumstances such that the stated gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from other sales at comparable locations in this state of similar products of like quality and character, in similar quantities, under comparable conditions of sale, to comparable purchasers, and shall include subsidies and bonuses.
>
> In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. (Emphasis ours)

Rule 112 provides that before a cost basis valuation is used, the Department is to make a finding that there are no similar or comparable sales. The taxpayer acknowledges that its rental machines are neither unique nor unusual but that it produces and sells many similar machines each year. It should be noted that the statute does not contemplate identical sales, but merely requires similar sales upon which to base a reasonable estimate of the value of the products sold. To this extent we would consider completed outright sales by other taxpayers of similar products within this state; completed outright sales by this

taxpayer of similar products located within this state; or even some average sales price by this taxpayer during prior months; as constituting "sales in this state of similar products of like quality and character, and in similar quantities" within the meaning of the statute. The taxpayer's petition is conditionally granted on this issue. The taxpayer is directed to compile the appropriate information of "similar sales" and present it to the Audit Division for verification.

Schedule IV: Sales Tax Reconciliation

We have conferred with the auditor on this matter; and he agrees that voided, reversed, or uncollected invoices should and will be adjusted upon the presentation of the proper documentation. The taxpayer's petition is remanded to the Audit Division on this issue.

Schedule V - Disallowed Interstate Deductions

WAC 458-20-193C (Rule 193C) states:

> A deduction is allowed with respect to export sales when as a necessary incident to the contract of sale the seller agrees to, and does deliver the goods ... or (3) to the buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the goods has begun, and such exportation will not necessarily be deemed to have begun if the goods are merely in storage awaiting shipment, even though there is reasonable certainty that the goods will be exported. The intention to export, as evidenced for example, by financial and contractual relationships does not indicate "certainty of export" if the goods have not commenced their journey abroad; there must be an actual entrance of the goods into the export stream.
>
> In all circumstances there must be (a) a certainty of export and (b) the process of export must have started.
>
> It is of no importance that title and/or possession of the goods pass in this state so long as delivery is made directly into the export channel. To be tax exempt upon export sales, the seller must document the fact that he placed the goods into the export process. That may be shown by the seller obtaining and keeping in his files any one of the following documentary evidence: ...

(2) A copy of the shipper's export declaration, showing that the seller was the exporter of the goods sold; or

(3) Documents consisting of:

(a) Purchase orders or contracts of sale which show that the seller is required to get the goods into the export stream, e.g., "f.a.s. vessel;" and

(b) Local delivery receipts, tripsheets, waybills, warehouse releases, etc., reflecting how and when the goods were delivered into the export stream; and

(c) When available, United States export or customs clearance documents showing that the goods were actually exported; and

(d) When available, records showing that the goods were packaged, numbered, or otherwise handled in a way which is exclusively attributable to goods for export.

Thus, where the seller actually delivers the goods into the export stream and retains such records as above set forth, the tax does not apply. It is not sufficient to show that the goods ultimately reached a foreign destination; but rather, the seller must show that he was required to, and did put the goods into the export process.

We have examined the export documentation supplied by the taxpayer in support of its sales to . . . British Columbia, Canada, on invoices #2131 and #2934. We are satisfied that the documentation submitted shows that the taxpayer was required to and did, in fact, put the goods into the export process. Accordingly, the taxpayer's petition is granted on these two invoices.

[Taxpayer B]

SCHEDULE II: Interstate Sales of Manufactured Goods

[3] In applying the above stated "significant change" test enunciated by the Court in Bornstein, we have again considered the above factors listed by the Court in the McDonnel case. We first note that when the taxpayer received the rental machine back from its customer, it received a functioning [machine], albeit not operating at its optimum level. After the taxpayer

replaced the worn-out sorting bars, it still retained a functioning rock [machine]. The form of the machine did not significantly change. Nor did its basic qualities, properties, or functional nature. Accordingly, we believe that the taxpayer's application of labor and materials did not result in a "...new, different or useful substance or article of tangible personal property...", but merely restored or prolonged the utility of an existing . . . machine. In this respect, we consider the taxpayer's actions to be a "repairing" and not a "manufacturing" activity. We note that this is significantly different from a manufacturer purchasing used engine cores which are then utilized as raw materials in producing remanufactured automobile engines[1]. Whereas that person is actually manufacturing a new product, this taxpayer is merely repairing a previously manufactured machine. The taxpayer's petition is granted on this issue subject to verification by the Audit Division.

SCHEDULES III & IV: Unreported Sales and Sales Tax Reconciliation

These schedules are also primarily factual matters and will be remanded to the Audit Division for examination of any additional documentation.

SCHEDULE V: Disallowed Interstate

[4] WAC 458-20-193A (Rule 193A) is the lawfully promulgated rule governing the deduction of shipments delivered out-of-state which do not involve exports. Rule 193A has significantly stricter documentation requirements than Rule 193C. It states in part:

> ... Where tangible personal property in Washington is delivered to the purchaser in this state, the sale is subject to tax under the retailing or wholesaling classification, even though the purchaser intends to and thereafter does transport or send the property out of state for use or resale there, or for use in conducting interstate or foreign commerce. It is immaterial that the contract of sale or contract to sell is negotiated and executed outside the state, that the purchaser resides outside the state, or that the purchaser is a carrier.
>
> Where the seller agrees to and does deliver the goods to the purchaser at a point outside the state, neither retailing nor wholesaling business tax is applicable.

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[1]See Det. No. 89-406, 8 WTD 157 (1989).

> Such delivery may be by the seller's own transportation equipment or by a carrier for hire. In either case for proof of entitlement to exemption the seller is required to retain in his records documentary proof (1) that there was such an agreement and (2) that delivery was in fact made outside the state. Acceptable proof will be:
>
> > (a) The contract or agreement AND
> > (b) If shipped by a for hire carrier, a waybill, bill of lading or other contract of carriage by which the carrier agrees to transport the goods sold, at the risk and expense of the seller, to the buyer at a point outside the state; or

Because of some confusion over the interpretation of Rule 193A, the Department issued Revenue Policy Memorandum No. 89-2 (RPM 89-2) on September 1, 1989 clarifying the meaning of the rule. It also notifies the public of the Department's intent to amend Rule 193 and states in part:

> Sales by sellers located in this state of goods delivered to buyers outside this state by carriers-for-hire are not subject to the wholesaling or retailing business and occupation tax or the retail sales tax in any cases where the seller is shown as consignor and the buyer is shown as consignee on the delivery bill of lading or other contract of carriage under which the goods are shipped to the out-of-state destination. This interstate sales exemption applies even in cases where the shipment is arranged through a freight consolidator or freight forwarder acting on behalf of either the seller or the buyer. It also applies regardless of whether the shipment is arranged on a "freight prepaid" or a "freight collect" basis.
>
> PROCEDURES
>
> Proof of entitlement to this interstate exemption, which must be retained by the seller in all cases will be a copy of the bill of lading or other contract of carriage showing the seller as consignor and the buyer as consignee as well as the out-of-state destination point of the goods sold.

1) Invoice No. . . . :

In support of this deduction, the taxpayer submitted a copy of its internal shipping log which states that the taxpayer shipped the products to the purchaser in . . . , Idaho.

Rule 193A and RPM 89-2 clearly provide that if the goods are shipped by a for-hire carrier, acceptable documentation for interstate deductions "will be a copy of the bill of lading or other contract of carriage showing the seller as consignor and the buyer as consignee as well as the out-of-state destination point of the goods sold." The taxpayer's internal shipping log is neither a bill of lading nor a contract of carriage. Neither does it list the seller as consignor nor the buyer as consignee. Accordingly, it is insufficient documentation that delivery was, in fact, made outside the state. The taxpayer's petition is denied on this issue.

2) Invoice No. . . . :

In support of this deduction, the taxpayer submitted a copy of its internal shipping log which states that it shipped the products to . . . , Arizona and a copy of the sales invoice instructing the taxpayer to ship the product to that location.

Same as #1 above. The taxpayer's petition is denied.

3) Invoice No. . . . :

In support of this deduction, the taxpayer submitted a copy of its internal shipping log which states that it shipped the products to [a shipping line] (. . .) for forwarding to Guam. The taxpayer also submitted a copy of a freight invoice listing the products transported and issued by . . . Transport, showing the taxpayer as the shipper/origin, and [the shipping line], Seattle as the receiver/destination. The taxpayer argues that this sale is entitled to the noncontiguous states retail sales tax exemption allowed by RCW 82.08.269. It states:

> The tax levied by RCW 82.08.020 [retail sales tax] shall not apply to sales for use in states, territories and possessions of the United States which are not contiguous to any other state, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions. (Brackets ours)

The following portion of Rule 193A implements this exemption and states:

> A statutory exemption (RCW 82.08.0269) is allowed in respect to sales for use in states, territories and possessions of the United States which are not contiguous to any other state (Alaska, Hawaii, etc.), but only when, as a necessary incident to the contract of sale, the seller delivers the property to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstance that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions.
>
> As proof of exemption, the vendor must retain the following as part of his permanent sales records:
>
> (a) A certification of the buyer that the goods being purchased will not be used in the state of Washington and are intended for use in the specified noncontiguous state, territory or possession.
>
> (b) Written instructions signed by the buyer directing delivery of the goods to a dock, depot, warehouse, airport or other receiving terminal of the transportation agency designated by him for transportation of the goods to their place of ultimate use. Where the buyer is also the carrier, delivery may be to a warehouse receiving terminal or other facility maintained by the buyer when the circumstances are such that it is reasonably certain that the goods will be transported directly to their place of ultimate use.
>
> (c) A dock receipt, memorandum bill of lading, trip sheet, cargo manifest or other document evidencing actual delivery to such dock, depot, warehouse or receiving terminal.

First, we note that both Alaska and Guam are states or possessions that are noncontiguous to any other state. Accordingly, sales of tangible personal property for use in these jurisdictions are entitled to the exemption. However, Rule 193A clearly requires three forms of documentation before the exemption will be allowed. First, a certification by the buyer that the goods are for use in the specific noncontiguous state or possession. Second, written instructions by the buyer directing delivery of the goods to a dock for transportation to their ultimate place of use. And third, a dock receipt, bill of lading, trip sheet, cargo manifest or other document evidencing actual delivery to such dock.

Our primary concern lies with the third requirement. In an effort to satisfy this requirement, the taxpayer has submitted a freight bill issued by the local carrier showing that the taxpayer was billed for transportation services from its place of business to the [shipping line] terminal in Seattle. This is simply insufficient documentation. A freight bill merely shows that the taxpayer is being billed for certain transportation services but does not document that these services were actually performed or that the goods were actually delivered to the dock. This can only be shown by a dock receipt, bill of lading, trip sheet, or cargo manifest whereby the interstate carrier (. . .) actually signs or acknowledges receipt of the goods delivered. Absent this documentation, taxpayer's petition is denied. If the taxpayer subsequently procures the appropriate documentation, it may submit it to the auditor for verification.

Invoice No. . . . :

In support of this deduction, the taxpayer submitted a copy of its internal shipping log which states that it shipped certain products to [a business] in . . . , California and a copy of the sales invoice. In addition, the taxpayer has submitted a Shipping Order signed by the shipper/consignor (taxpayer) and . . . (carrier) obligating the carrier to deliver the goods to the consignee . . . in . . . , California. We believe that this contract of carriage satisfies the documentation requirements of Rule 193A and RPM 89-2. The taxpayer's petition is granted on this issue.

4) Invoice No. . . . :

In support of this deduction, the taxpayer submitted a copy of its sales invoice showing the "ship to" address as . . . , Idaho. In addition, the taxpayer has submitted a Memo Bill of Lading signed by . . . (purchaser) and listing the carrier as "his truck" showing a destination of . . ., Idaho. This documentation merely indicates that the purchaser picked-up the ordered products at the taxpayer's place of business and thereafter transported them outside the state. This clearly constitutes local delivery and is therefore fully subject to the Washington B&O and retail sales tax. The taxpayer's petition is denied on this issue.

5) Invoice No. . . . :

The taxpayer explains that this machine was originally shipped to Alaska in 3/89, rented for two months and then sold in 5/89. In support of this deduction, the taxpayer submitted a copy of its invoice showing the "ship to" address as . . . , Alaska and a copy of its internal shipping log stating that the machine was

transported by . . . Carriers to . . . Transport in Seattle for shipment to Alaska.

Same as #3 above. Taxpayer's petition is denied absent valid documentation.

6) Invoice No. . . . :

The taxpayer states that the customer picked up the machine in Washington and brought it back to Montana.
This constitutes local delivery and is therefore fully subject to the Washington B&O and retail sales tax. See #4 above. The taxpayer's petition is denied on this issue.

The taxpayer also presented documentation that this sale was subsequently reduced . . . .

The taxpayer's petition is granted on this issue subject to verification by the Audit Division.

7) Invoice No. . . . :

The taxpayer states that the customer picked up the parts in Washington and brought them back to Idaho.

Same as #4 above. The taxpayer's petition is denied on this issue.

SCHEDULE VII: Use Tax

[5] We agree that purchases of grease and oil used to lubricate machinery held exclusively for resale as either inventory or rental equipment are purchases for resale in the ordinary course of business. Therefore, they are not subject to retail sales tax. The taxpayer's petition is granted on this issue subject to verification by the Audit Division.

DECISION AND DISPOSITION:

The taxpayer's petition is granted in part and denied in part. This matter shall be remanded to the Audit Division for the proper adjustments consistent with this determination.

DATED this 17th day of September, 1991.