

Cite as 11 WTD 87 (1990).

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

In the Matter of the Petition	)	<u>D E T E R M I N A T I O</u>
<u>N</u>		
For Correction of Assessment of	)	
	)	No. 90-370
	)	
. . .	)	Registration No. . . .
	)	. . . /Audit No. . . .
	)	

[1] RULE 180 AND RCW 82.16.010: PUBLIC UTILITY TAX --  
URBAN TRANSPORTATION -- MOTOR TRANSPORTATION --  
CABULANCES. Merely because cabulances are equipped  
with wheelchair lifts to transport physically  
challenged persons does not convert the vehicles  
into ambulances or their operations into ambulance  
services. State and local governments strictly  
regulate ambulances and ambulance operations  
regarding their medical equipment/supplies, drug  
contents and personnel with paramedic training. In  
contrast, cabulances provide only a taxi service for  
physically challenged persons. Cabulances and their  
drivers do not offer medical services.

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: . . .

NATURE OF ACTION:

The taxpayer petitioned for a correction of an assessment of  
service business and occupation (B & O) tax on amounts which  
were determined to have been received for the operation of  
ambulances.

FACTS:

De Luca, A.L.J. -- The audit covered the period from April 1, 1987 through June 30, 1989. The taxpayer had reported its income under the public utility tax classifications of urban transportation and, in some instances, motor transportation. The audit division determined the proper tax classification was B & O - service and other activities. The taxpayer was assessed \$ . . . in B & O taxes and \$ . . . in use tax. The taxpayer was credited for having paid \$ . . . for urban transportation taxes and \$ . . . for motor transportation taxes. With interest, the net assessment was \$ . . . .

The audit division concluded the business of operating cabulances did not constitute "motor transportation" and "urban transportation" under WAC 458-20-180 (Rule 180).<sup>1</sup> Instead, the audit division decided the taxpayer was operating an ambulance service under WAC 458-20-224 (Rule 224). The audit report reasoned as follows:

The dictionary defines the word "ambulance" as meaning: (1) Orig., a mobile field hospital, and (2) a specially equipped automobile or other vehicle for carrying the sick or wounded. Since the cabulances are specially equipped to transport invalids and they are not generally used as a public taxi, they fall within the common understanding of what is meant by "ambulance".

#### ISSUE:

Should the cabulance service be treated as ambulance service and classified under service B & O (Rule 224) or should it be taxed under the urban transportation and motor transportation classifications (Rule 180) as reported by the taxpayer?

#### TAXPAYER'S EXCEPTIONS:

The taxpayer contests the reclassification from urban transportation and motor transportation public utility taxes to service B & O taxes. It further requests that all interest

---

<sup>1</sup>Neither the auditor nor the taxpayer has provided us with a definition of "cabulance" and we have been unable to find one. Although we do not attempt to define precisely what a cabulance is, we take note that it usually is a multi-passenger van equipped with a wheel chair lift to assist disabled persons in their transportation needs. It serves a function similar to taxicabs.

and penalties assessed due to the B & O reclassification be deleted as well.

The taxpayer contends cabulance transportation is not ambulance transportation. The taxpayer has provided an affidavit from its president along with numerous exhibits demonstrating that it is not an ambulance service. The first exhibit is a copy of the . . . County Health Department Ambulance and Advanced Life Support Rules and Regulations, (adopted [in September of 1988]). The second exhibit is a copy of Medical Transportation Billing Instructions (Sept. 1987 rev.) promulgated by the Division of Medical Assistance, Office of Provider Services, Washington Department of Social & Health Services (DSHS).

#### DISCUSSION:

Rule 180 and RCW 82.16.020 (9) reveal that "urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, .... Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type ...." (underlining added). The taxpayer's cabulances are passenger vehicles for hire which fit this definition.

The taxpayer has amply supported its contention that it is not an ambulance service. The . . . County ambulance regulations consist of twelve single-spaced pages which set compulsory minimum standards for the operation of ambulance and paramedic vehicles and services. These regulations are quite detailed in specifying the scores of medical supplies/equipment and drugs which each vehicle must carry. The supplies and drug lists alone are several pages. Moreover, the regulations require at least two persons to operate an ambulance or paramedic vehicle, and at least one of the persons on board must be a paramedic who meets statutory and regulatory standards of training. Similar complex and lengthy ambulance standards have been promulgated in regulations by DSHS. See WAC 248-17-010 et seq.

The taxpayer's president has sworn that the cabulances do not carry any of the equipment/supplies or medications required by the . . . County ambulance regulations. The affiant also swore that the cabulances operate only with a driver per vehicle. The drivers are not paramedics. Conversely, the audit report contains no information to refute the affidavit.

Moreover the DSHS Medical Transportation Billing Instructions distinguish ambulance transportation from cabulance transportation. The instructions allow the use of ambulances when specified medical (emergency or other serious) treatments have been performed on the patient.

In contrast, the instructions for cabulance service provide:

Persons transported by cabulance must be stable, must not need administration of oxygen by the provider of transportation service, must not need to be transported by stretcher, litter, or similar device, nor require medical attention enroute.

It is noted the billing instructions allow a basic one-way charge for an ambulance patient of \$[70]. In comparison, the instructions allow a basic one-way charge for a cabulance patient of \$[15].

Furthermore, merely because physically challenged persons may not be able to use ordinary taxicabs which are not equipped with wheelchair lifts does not convert the subject vehicles and their operation into an ambulance service. There is no basis to treat differently taxicab operations which provide service to the non-physically challenged public from cabulance operations which provide similar service to the physically challenged public by the use of vans equipped with lifts. The above-cited regulations and affidavit make it clear that cabulances do not provide medical services like ambulances do.

#### DECISION AND DISPOSITION

The taxpayer's petition is granted. The taxpayer's operation of cabulances is subject to the public utility tax classifications of urban transportation business and motor transportation business, not service B & O. Because the taxpayer is engaged in the business of both urban and motor transportation, its books of account must show a proper segregation of revenue in order to report under the urban transportation classification. The use tax assessment is sustained.

DATED this the 29th day of October 1990.