

Cite as 11 WTD 211 (1991).

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 N</u>
For Correction of Assessment of)	
)	No. 91-171
)	
. . .)	Registration No. . . .
)	. . ./Audit No. . . .
)	

[1] RETAIL SALES TAX -- PUBLIC TRANSPORTATION BENEFIT AREA (PTBA) -- DUTY OF RETAILERS TO ADJUST SALES TAX RATES. Where county residents vote to increase sales tax to fund a PTBA, it is the duty of persons liable for sales tax collection to ascertain that they are collecting tax at the correct rate. While the Department attempts to notify all taxpayers of changes affecting them, the self-assessing nature of Washington's tax structure places the burden on taxpayers to inform themselves.

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:

Taxpayer petitions for correction of assessment of retail sales tax on grounds that it did not know the sales tax rate for its area had changed.

FACTS AND ISSUE:

Adler, A.L.J. -- Taxpayer is engaged in business in . . . County. A routine audit covering the period from January 1, 1985, through June 30, 1989, resulted in an assessment of sales tax. The auditor informed the taxpayer that the sales tax rate for . . . County had increased due to voter approval of funding for a PTBA.

Taxpayer complains that its prior audit, covering the years 1978-1982, did not result in this type of adjustment. Further, it contends it was not otherwise informed by the Department that the change had occurred. It enclosed a map of the [county's] PTBA and stresses that its business is located

right on the border line of the Transit area. The company was unaware of the revised local tax rate adjustment and was never advised by the Department that they were to be classified within the PTBA area. The Company never received a notice of rate adjustments with its monthly sales tax returns. Also, the local code number used by the Department to indicate the revised designation of the Transit Authority was never changed on the return provided to the Company on a monthly basis by the Department.

DISCUSSION:

[1] In 1983, residents of . . . County voted to increase sales tax for a newly-created Public Transportation Benefit Area. The PTBA included ten precincts in . . . County. The tax increase required a majority vote to pass and became effective on January 1, 1984.

A representative with the Department's Taxpayer Accounts Administration division, who has handled this type of tax since prior to the 1984 change, states that the Department mailed notification about the [county] PTBA prior to the effective date to all taxpayers who were then reporting under local sales tax code 3700. Included with the packet was the map submitted by the taxpayer and the information that all persons reporting under code 3700 should report under code 3737 effective January 1, 1984.

Taxpayer claims it did not receive the mailing and consequently failed to change its reporting code and increase the sales tax collected. The Department of Revenue gives consideration, to the extent permitted by law, where a taxpayer can show that its failure to report correctly was due to written instructions from the Department. It cannot give consideration to a claimed lack of notification. This is especially true where a general mailing based on reporting codes can be shown to have been made by the Department prior to the time of the tax change.

Excise taxes are of a self-assessing nature, and the burden is placed upon the taxpayer to correctly inform itself of its obligation. To permit a taxpayer to be excused from paying taxes based on a claim of lack of notification would be to encourage taxpayers to make such claims and thwart the self-assessing nature of the excise taxes enacted by the legislature. The Department makes every effort to inform all taxpayers of changes in tax rates, instructions, and other pertinent information. However, failure to notify a particular taxpayer of a change in tax liability does not relieve the taxpayer from its responsibility to inform itself of those changes.

In this case, the tax is a "local-option" tax, which requires a vote by the residents in the affected areas.

The [local newspaper] librarian reports that articles about this type of tax were printed in the paper beginning as early as 1980. The use of the terms "Public Transportation Benefit Area" and "PTBA" first appeared in the [local newspaper] during 1982. In 1983, the year of the vote, the paper ran at least twenty-six stories about the vote and its eventual passage. The [July 1983] story was a large feature and included a map of the PTBA. The one [in November 1983] was the first one after the passage of the increase and was entitled "Voters Pave the Way." At least one of the stories, [in November 1983], listed the effective date of January 1, 1984.

Additionally, taxpayer's contention that it is on the border of the Transit area is incorrect. The map submitted is the one showing the boundaries of the PTBA as of its January, 1984 creation. (Later changes added new precincts to the PTBA.) The original PTBA contained ten precincts. The precinct on which taxpayer "borders" is the one covering most of the . . . city limits, but it is not the only one to which the tax increase applied. Taxpayer is clearly included within another of the ten precincts comprising the overall . . . County PTBA.

Finally, taxpayer's complaint that the mistake was not discovered in the prior audit is immaterial, since the tax was not enacted until the year after the audit occurred.

We find that the assessment is proper. Additionally, because we find that the law requires taxpayer to inform itself of its obligations and that several opportunities to do so were available even if the Department's mailing to code 3700

taxpayers was not received, we are without authority to waive the assessment.

DECISION AND DISPOSITION:

Taxpayer's petition is denied.

DATED this 27th day of June 1991.