

Cite as Det. No. 95-183E, 15 WTD 162 (1996).

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 Request for Interpretation	)	
	)	No. 95-183E
	)	
. . .	)	Registration No. . . .
	)	Request for Ruling
	)	

RCW 46.74.010 - RETAIL SALES TAX - EXEMPTION - PURCHASE OF MOTOR VEHICLES - RIDE SHARING FOR THE ELDERLY AND HANDICAPPED. As a transit agency, a public transportation benefit area's purchase of vans for the purposes of ride-sharing for the elderly and handicapped as described in RCW 46.74.010(2) is exempt under RCW 82.08.0287.

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.

NATURE OF ACTION:

Petition concerning the applicability of the RCW 82.08.0287 retail sales tax exemption to the purchase of vehicles by transit authorities to provide ride-sharing for the elderly and handicapped.

FACTS:

Bauer, A.L.J. -- The taxpayer is a public transportation agency for the general public. It is chartered as a public transportation benefit area, a municipal corporation of the State of Washington, under the authority of chapter 36.57A RCW.

In early 1994, the taxpayer purchased three seven-passenger wheelchair-equipped vehicles for use in its transportation program. During April and May 1994, the taxpayer corresponded with the Taxpayer Information and Education Section (TI&E) of the

Department of Revenue (Department) to determine whether these vehicle purchases were properly exempt from retail sales tax under the 1993 amendment to RCW 82.08.0287.

TI&E reasoned that the taxpayer was neither a public social service agency nor a private nonprofit transportation provider, and therefore its van purchases were not exempt under RCW 82.08.0287. In so deciding, TI&E relied on RCW 46.74.010(2), which requires that van pools qualified for the exemption are required to be operated by either "a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3)".

The taxpayer appealed this decision. Executive level review was requested and granted because this is an issue of first impression.

#### ISSUE:

Whether a transit authority qualifies as a "public social service agency" eligible for the exemption from retail sales tax provided under RCW 82.08.0287 for purchases of passenger motor vehicles used for ride-sharing by the elderly and handicapped.

#### DISCUSSION:

A retail sales tax exemption is provided by RCW 82.08.0287 for:

. . . sales of . . . passenger motor vehicles where the primary usage is for ride-sharing for the elderly and the handicapped, as defined in RCW 46.74.010(2) . . .

The phrase "ride-sharing for the elderly and handicapped" is defined by RCW 46.74.010(2) as:

. . . a car pool or van pool arrangement whereby a group of elderly and/or handicapped persons and their attendants not exceeding 15 persons including passengers and driver, is transported by a public social service agency or a private nonprofit transportation provider as defined in RCW 81.66.010(3)<sup>1</sup> . . .

---

<sup>1</sup> The taxpayer has never contended to be a "private, nonprofit transportation provider under RCW 81.66.010(3), which defines the term "private, nonprofit transportation provider" to be

. . . any private, nonprofit corporation providing transportation services for compensation solely to elderly or handicapped persons and their attendants.

(Emphasis added.)

We note that, although the term "private, nonprofit transportation provider" is defined by statute, the term "public social service agency" is not. Neither is this term used or defined anywhere in the Washington Administrative Code (WAC).

The taxpayer argues that, as a public transportation benefit area, it is a public agency, and the transportation services provided by the taxpayer are social services intended to benefit and promote the welfare of the community, specifically the elderly and the handicapped. Therefore, the taxpayer argues that it is a "public social service agency" qualified for the RCW 82.08.0287 retail sales tax exemption.

It is a rule of statutory construction that intent behind the language of an enactment becomes relevant when there is an ambiguity. City of Spokane v. Taxpayers of the City of Spokane, 111 Wn.2d 91, 758 P.2d 480 (1988). A term is ambiguous when its meaning is uncertain, and such is the case with the interpretation of "public social service agency," which has potentially a very broad or a very narrow meaning.

In amending RCW 82.08.0287 in 1993 to add this retail sales tax exemption, it is clear that the legislature intended the exemption to apply to the acquisition of ride-sharing vehicles by transit agencies such as the taxpayer:

The legislature finds that ride sharing and vanpools are the fastest growing transportation choice because of their flexibility and cost-effectiveness. Ride sharing and vanpools represent an effective means for local jurisdictions, transit agencies, and the private sector to assist in addressing the requirements of the Commute Trip Reduction Act, the Growth Management Act, the Americans with Disabilities Act, and the Clean Air Act.

(Laws of 1993, ch. 488 § 1, emphasis added.)

Therefore, because transit agencies such as the taxpayer are clearly not "private, nonprofit transportation provider[s]", the legislature must have intended to include transit agencies in the term "public social service agency".

[1] Accordingly, the taxpayer is advised that, as a transit agency, its purchase of vans for the purposes of ride-sharing for

---

the elderly and handicapped, as described in RCW 46.74.010(2), is exempt under RCW 82.08.0287.

Taxpayers are entitled to request a ruling pursuant to WAC 458-20-100(9). Normally, a taxpayer may rely upon the ruling for reporting purposes and as support of the reporting method in the event of an audit. However, this ruling is based only upon the facts that were disclosed by this taxpayer. It shall not be binding if there are relevant facts which are in existence but not disclosed at the time that this opinion was issued; if, subsequently, the disclosed facts are determined to be false; or if the facts as disclosed, or the law, subsequently change and no new opinion has been issued which takes into consideration those changes.

DATED this 21st day of September, 1995.