

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

In the Matter of the Petition For Correction of)	<u>D E T E R M I N A T I O N</u>
Assessment/Refund of)	
)	No. 96-189-
)	
)	Registration No. 601 307 094
)	FY9603853/Audit No. 3537800

RCW 82.04.055(1)(a): B&O TAX -- SELECTED BUSINESS SERVICES
CLASSIFICATION -- STENOGRAPHER -- MEDICAL TRANSCRIPTION.
Transcribing medical recordings constitutes stenographic, secretarial, or clerical
services taxable at the selected business services rate.

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:

A medical transcription company protests the reclassification of its receipts from the service and
other activities business and occupation (B&O) tax classification to the selected business services
classification.¹

FACTS:

Pree, A.L.J. -- The taxpayer provides medical transcription services to hospitals and clinics. It
transcribes recordings made by physicians that contain medical information about their patients.

The Department of Revenue (Department) examined the taxpayer's 1993 Annual Combined Excise
Tax Return. As a result, the Department reclassified the taxpayer's business from the service and
other activities classification to the selected business services classification and issued a Notice of
Balance Due. The rationale for the reclassification was that the taxpayer, in transcribing the
recordings, was offering stenographic, secretarial, or clerical services within the meaning of RCW
82.04.055(1)(a).

The taxpayer protests the reclassification on the grounds that its duties and responsibilities were not
like those of a stenographer, secretary, or clerk. The taxpayer contends that it is part of the health

¹Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

industry whose receipts are normally taxed under the service and other business activities classification. The taxpayer also states that its services are far more sophisticated and require a much higher level of training and expertise. It refers to its employees transcribing the medical records as medical language specialists.

Some of the physicians dictate the information into recording equipment and then deliver the tapes to the taxpayer. Other physicians dictate the information over the phone into the taxpayer's recording equipment. In either case, the transcriptions are completed by the taxpayer at its place of business and then delivered to the physicians. The physician must check the transcription and sign it. The transcription then becomes part of the patient's permanent medical record. Occasionally, on rush jobs, the medical record may even state: "dictated, but not read".

The taxpayer enters service agreements with the clinics and hospitals. They agree to pay the taxpayer a specific amount per line transcribed by the taxpayer. The taxpayer agrees to return the completed transcription within a specific time after receipt of the dictation. The medical information is confidential and the taxpayer agrees not to disclose any patient or institutional information to third parties. According to its agreements, the taxpayer proofreads all documents for grammar and spelling, but does not, in any way, ensure the medical accuracy of its documents. The taxpayer does not perform transcription services for other, nonmedical industries.

The taxpayer states that the skills and experience of stenographers, secretaries, and other clerical workers are insufficient to be medical language specialists. The taxpayer requires that its employees have two years of specialized medical language education. They must understand medical diagnosis sufficiently to flag omissions in reports. They must know the proper spelling of various drugs as well as the normal dosages.

Medical transcriptionists are not regulated by the Department of Licensing or other governmental regulatory agency. The taxpayer does belong to a professional association, "The American Association for Medical Transcription" (AAMT). That organization publishes The Journal of the American Association for Medical transcription, with various articles about the industry as well as standards for medical transcription. AAMT also offers The AAMT Book of Style for Medical Transcription with "everything you always wanted to know about punctuation, grammar, editing, format, and more."

The taxpayer states that, without medical language training, stenographers, secretaries, or clerks from other professions are not qualified to be medical transcriptionists. Medical transcriptionists are also acknowledged as certified medical transcriptionists (CMT) by the AAMT if they successfully pass a two-part examination. They first must pass a comprehensive medical language test. Then, after a few months they are tested on their accuracy and speed in transcribing medical tapes. The taxpayer was unaware of any governmental involvement in either the CMT certification or testing process.

ISSUE:

Whether a corporation whose employees transcribe recordings made by physicians that contain patient medical information is offering stenographic, secretarial, or clerical services within the meaning of RCW 82.04.055(1)(a).

DISCUSSION:

Effective July 1, 1993 the legislature created the selected business services B&O tax classification. The statute, RCW 82.04.055, provides in part as follows:

- (1) "Selected business services" means:
 - (a) Stenographic, secretarial, and clerical services.

The terms "stenographic," "secretarial," and "clerical" are not defined in the statute. Absent statutory definitions of these terms, we may resort to the dictionary to ascertain their common meanings. City of Seattle v. Hill, 40 Wn. App. 159, 697 P.2d 596 (1985). Webster's New Riverside Dictionary (2nd ed. 1984) defines the term "stenography" as "the art or process of writing in shorthand." A "stenographer" is "one skilled in shorthand, esp. one hired to take and transcribe dictation." Addition of the suffix "-ic" to "stenography" broadens the meaning somewhat to include activities "relating to" stenography. The term "secretary" is defined as "one employed to handle correspondence, keep files, and do clerical work for an individual or company." Addition of the suffix "-ial" to "secretary" broadens the meaning to include activities "of, pertaining to, or characterized by" secretaries. The term "clerical" is defined as "of or relating to clerks or office workers."

Applying these definitions to the facts of this case, it is clear that the taxpayer's activities fall within the ambit of services targeted by the legislature. While the taxpayer may not consider its employees stenographers, secretaries, or clerks, per se, their activities certainly relate to, pertain to, or are characterized by, the types of services routinely performed by those individuals. For example, legal secretaries routinely transcribe electronically recorded dictation that contains medical terminology.

What distinguishes medical transcriptionists from general clerical workers is their specialized field, medicine. Many clerical workers must acquire additional training to work in a specialized field. We acknowledge that this specialization may make their services more valuable and is not necessarily transferable to another specialized field, but the activity of transcribing dictation is clearly the service for which the taxpayer is compensated and must be taxed accordingly.

In interpreting RCW 82.04.055, our primary objective is to carry out the intent of the legislature as expressed in the language of the statute. Clements v. Travelers Indem. Co., 121 Wn.2d 243, 850 P.2d 1298 (1993). We must also heed the maxim that if there is any doubt as to the meaning of a taxing statute, it must be construed most strongly against the taxing authority and in favor of the taxpayer. Shurgard Mini-Storage of Tumwater v. Department of Revenue, 40 Wn. App. 721, 727,

700 P.2d 1176 (1985).

Carefully considering these rules of statutory construction, we have no doubt that the legislature intended to include services performed by medical transcribers within the classification of services performed by the stenographers, secretaries, and clerks of this state for purposes of the B&O tax. Accordingly, we hold that the medical transcription activities under consideration here do constitute stenographic, secretarial, or clerical services within the meaning of RCW 82.04.055(1)(a) and, therefore, are taxable under the selected business services classification.

DECISION AND DISPOSITION:

The taxpayer's petition is denied.

DATED this 25th day of October, 1996.