

Cite as 2 WTD 7 (1986)

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

In the Matter of the Petition)	<u>D E T E R M I N A T I</u>
<u>O N</u>)	
For Refund of)	No. 86-294
)	
. . .)	Registration No. . . .
)	Tax Assessment No. . .
.)	

Rule 221, RCW 82.12.040: BURDEN OF PROOF. Receipt showing payment of use tax to seller need not be in any particular form but must at a minimum show the identity of the property, date of sale, selling price, and amount of use tax collected and remitted by seller.

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:

Insurance agent petitions for refund of use tax paid on office supplies purchased from insurance company without payment of retail tax asserting that use tax was paid by vendor.

FACTS AND ISSUES:

Rosenbloom, A.L.J. -- The taxpayer is an insurance agent. An examination of the taxpayer's account for the period May 1, 1983 through March 31, 1986 disclosed that the taxpayer had purchased office supplies from the insurance company without payment of the retail sales tax. The assessment issued as a result of this examination included use tax on the purchase price of these office supplies. The taxpayer paid the assessment in full and petitioned for a refund.

TAXPAYER'S EXCEPTIONS:

The taxpayer asserts that the insurance company has already paid use tax on the office supplies. The taxpayer has presented an undated memo from the accounting department of the insurance company's northwest regional office. The memo concludes "all agents supply orders processed by the Northwest Office have had Use Tax paid to the appropriate state by Corporate Headquarters".

DISCUSSION:

RCW 82.12.020 imposes an excise tax upon the privilege of using within this state any article of tangible personal property purchased at retail. RCW 82.12.040 requires certain retailers making sales of tangible personal property for use in this state to collect the use tax from their purchasers. WAC 458-20-221, the administrative regulation which implements this requirement, provides in part:

The use tax is computed upon the value of the property sold. At the time of making a sale of tangible personal property, the use of which is taxable under the use tax, the seller must collect the tax from the purchaser and upon request give to the purchaser a receipt therefor. This receipt need not be in any particular form, and may be an invoice which identifies the property sold, shows the sale price thereof and the amount of the tax.

Though the regulation does not require that a receipt for collection of use tax be in any particular form, we do not believe that a simple statement that all orders "have had use tax paid to the appropriate state" suffices. Whatever the form of writing, it should at minimum show the identity of the property sold, date of sale, selling price, and amount of use tax collected and remitted.

The evidence offered by the taxpayer does not establish with any degree of certainty that the use tax was in fact collected and remitted to the state. Even assuming tax was collected and remitted, there are no means for the Department to verify that it was in the proper amount.

We do not rule conclusively that the taxpayer is not entitled to a refund of use tax on office supplies; only that the taxpayer has failed to establish entitlement to the same. If

the taxpayer can produce a written statement from the insurance company identifying the property sold, date of sale, selling price, and amount of use tax collected and remitted, then a refund will be allowed: **Provided, that** the taxpayer furnish such statement within the time period allowed in RCW 82.32.060 for credits or refunds.

DECISION AND DISPOSITION:

The taxpayer's petition for refund is denied.

DATED this 13th day of November 1986.