

Cite as Det. No. 87-50A, 2 WTD 443 (1987)

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

In the Matter of the Petition)	<u>S U P P L E M E N T A L</u>
For Refund of)	<u>D E T E R M I N A T I O N</u>
)	
)	No. 87-50A ¹
)	
. . .)	Re: Use Tax
)	1986 Mazda RX-7
)	

[1] **RULE 178:** USE TAX -- EXEMPTION -- AUTO BROUGHT INTO WASHINGTON -- USE WHILE TEMPORARILY WITHIN THIS STATE -- EMPLOYMENT TRAINING PERIOD.

The use of an auto brought into this state by a nonresident while temporarily within this state is exempt from use tax. Where a Massachusetts resident established residence here on obtaining employment here, it cannot be said that she was here temporarily even if after a ten month employment training period she left the state. Motor vehicle licensing regulation cited which holds that she was required to license the auto within sixty days after becoming a new resident.

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.

Krebs, A.L.J.--We have your letter of March 20, 1987 petitioning for reconsideration of the decision in Determination No. 87-50 issued on February 20, 1987. The Determination denied your petition for refund of use tax in the amount of \$529 paid to Washington when you registered the 1986 Mazda on December 8, 1986. You received a credit for the sales tax paid to Massachusetts pursuant to RCW 82.12.035.

The basis for the new petition is that you believe the "nonresident clause which allows the use of a tangible personal property brought into the state of Washington for use while temporarily within the state" applies to the facts in your case. You explain that your employer has decided that your time in Washington was a training period and that you should move back to the Boston area as your permanent location. You purchased a condominium in . . . , Massachusetts with closing to be held on April 20, 1987. The movers will load your furniture on April 10, 1987 for departure from

¹ The original determination, Det. No. 87-50, is published at 2 WTD 249 (1986).

Washington to Massachusetts, which means that you have resided in Washington for a total of 10 months.

The additional salient facts in your case are:

1. You purchased the auto in Massachusetts where you were a resident on April 12, 1986.
2. On April 21, 1986, you accepted a job in Seattle, Washington.
3. You arrived in Washington about May 31, 1986 with the auto and have resided in Seattle since then.
4. In July 1986, you obtained a Washington driver's license.

WAC 458-20-178 (Rule 178), which has been furnished to you, allows an exemption from use tax as to the following use (the basis for your new petition):

- 1.a. The use of tangible personal property brought into the state of Washington by a nonresident thereof for his use or enjoyment while temporarily within this state . . .
(Emphasis supplied.)

The Determination issued February 20, 1987 gave consideration to the applicability of this exemption and held you were not entitled to this exemption because you "did not come to Washington temporarily." You "had employment and . . . obtained a Washington driver's license in July 1986."

In order to get a Washington driver's license, you declared yourself to be a resident of the state of Washington. This fact alone establishes that you were not here "temporarily." Additionally you had employment here as well as your furniture.

Furthermore, the motor vehicle licensing regulation, WAC 308-99-040, in pertinent part provides:

...

- (5) Temporary employment: Nonresident persons engaged in employment of a temporary nature may operate a vehicle in this state which is currently licensed in another jurisdiction for a period not to exceed six months.

...

- (10) New resident: New Washington residents shall be allowed sixty days from the date of establishing residency to procure Washington registration for their vehicle.

Thus, even if we were to construe your employment training period as bearing on your being "temporarily within this state," nevertheless, your ten month residence in Washington from June 1,

1986 through March 31, 1987 would have required you to license the auto in Washington by December 1, 1986. It is noted that you licensed the auto on December 8, 1986.

In any event, we believe that you became a new Washington resident about May 31, 1986 when you arrived in this state and began residing in Seattle. This required you to license the auto in Washington by August 1, 1986. WAC 308-99-040(10).

We are sorry that our decision could not be more favorable to you. We can only repeat what we stated in the Determination issued February 20, 1987 that we have researched the law and found no Washington use tax exemption available to you based on the facts in this case.

For the facts stated, the reasons expressed and the law set forth, your petition is denied.

DATED this 31st day of March 1987.