

Cite as 2 WTD 417 (1987)

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

In the Matter of the Petition )	<u>D</u> <u>E</u> <u>T</u> <u>E</u> <u>R</u> <u>M</u> <u>I</u> <u>N</u> <u>A</u> <u>T</u> <u>I</u> <u>O</u> <u>N</u>
For Refund of )	
)	No. 87-94
)	
. . . )	Registration No. . . .
)	
)	
)	

[1] **RULE 169, RCW 82.04.290:** MINISTERS -- RELIGIOUS ORGANIZATIONS -- SERVICE B&O TAX. There is no general exemption from B&O tax for religious organizations. Fees received by a minister for performing wedding ceremonies are taxable as B&O Service.

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:

DATE OF HEARING: . . .

NATURE OF ACTION:

The taxpayer, a religious minister and wedding chapel operator, petitioned for a refund of business and occupation taxes paid on fees received for performing wedding ceremonies, from 1982 to 1985.

FACTS AND ISSUES:

Normoyle, A.L.J. (successor to M. Clark Chandler, A.L.J.)--The taxpayer, during the period in question, operated a business which offered "Complete Wedding Services." Among other things, those services included the performance of wedding ceremonies, catering, tuxedo and gown rentals, and photography services. It is only the minister's fees for performing the weddings which are here at issue.

The taxpayer states that she was licensed by the state of Washington to legally perform weddings. Typically, her charge ranged from \$25 to \$50 per ceremony. The taxpayer believes that she is exempt from B&O tax on these services because:

1. She has a "Master of Ministry" degree, i.e., she is a minister;
2. She operates under the auspices of a church, which has been incorporated as a nonprofit organization; and
3. Other ministers in Washington don't report income and pay taxes on fees received for performing wedding ceremonies.

#### ISSUE:

Are fees received by a minister for performing wedding ceremonies exempt from the business and occupation tax?

#### DISCUSSION:

The applicable excise tax statutes, contained in what is known as "The Revenue Act of 1935," are as follows:

1. **RCW 82.04.030**--The word "person" means, among other things, nonprofit corporations.
2. **RCW 82.04.080**--The term "gross income of the business" means, among other things, "compensation for the rendition of services."
3. **RCW 82.04.140 and .150**--"Business" and "Engaging in business" means the conducting of activities "with the object of gain."
4. **RCW 82.04.220**--A B&O tax is imposed on those engaging in business, measured, in this case, by the gross income of the business.
5. **RCW 82.04.290**--Those activities of a business which are not sales at retail or wholesale are taxable under the "service" classification.

The legislature has directed the Department of Revenue to enact administrative rules which implement the excise tax

statutes. Washington Administrative Code 458-20-169 provides, in pertinent part, that "Religious, charitable, benevolent, and nonprofit service organizations are subject to the excise taxes imposed by the Revenue Act of 1935 . . . ."

There are exceptions under the rule for income received from certain short-term fundraising activities, sheltered workshop income, and some health and social welfare organizations. The taxpayer does not qualify for any of these exemptions.<sup>1</sup>

We conclude, on the basis of the above statutes and rule, that the fees for performing wedding ceremonies were properly taxed under the business and occupation Service classification.

We must also reject the argument that this taxpayer should be relieved of tax liability simply because other ministers do not pay B&O tax. First, any minister or church conducting wedding ceremonies for a fee must be registered and must report and pay B&O tax, subject to the minimum income requirements. If the taxpayer is aware of ministers who should be registered, but aren't, she is invited to so advise the Department of Revenue at her local office. Secondly, assuming that there are other ministers who are avoiding taxation, the argument that "I shouldn't be taxed, because they aren't taxed," while having a certain equitable appeal to it, doesn't work with the Department of Revenue anymore than the argument that "I shouldn't be ticketed for speeding, because others aren't" works with the State Patrol. The Department attempts to collect tax from those who are required to pay. The fact that some persons avoid taxation, whether innocently or intentionally, does not prevent the Department from assessing taxes on other taxpayers.

DECISION AND DISPOSITION:

The petition for a refund is denied.

DATED this 27th day of March 1987.

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<sup>1</sup>RCW 82.04.4282 and WAC 458-20-114 do contain an exemption for certain contributions and donations, but only when given as outright gifts and not as payment for a service. The fee received by this taxpayer for a wedding service cannot be considered a gift.