

Cite as 2 WTD 407 (1987)

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

In the Matter of the Petition )  
N )  
 For Correction of Assessment of )  
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D E T E R M I N A T I O  
 No. 87-80  
 Registration No. . .

[1] **RULE 197 AND RULE 199:** WHEN TAX LIABILITY ARISES --  
ACCRUAL BASIS TAXPAYER.

A taxpayer who keeps accounting records on the accrual basis must report excise tax liability on the accrual basis.

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: June 30, 1986

NATURE OF ACTION:

The taxpayer petitions for correction of an assessment issued after an audit of the taxpayer's records.

FACTS AND ISSUES:

Potegal, A.L.J.--The taxpayer published a . . . magazine during the period covered by the audit (January 1, 1982 through August 31, 1985). As a result of the audit Tax Assessment No. . . . in the amount of \$ . . . was issued on April 8, 1986. A payment of \$ . . . was made on July 1, 1986.

The taxpayer kept his books and records on an accrual basis. However, he reported excise taxes to the state on a cash basis. A portion of the assessment represents tax on income accrued, but not actually received, by the taxpayer. It is that portion of the assessment to which the taxpayer objects.

The grounds for objection are (1) that it is unfair to pay tax on income not actually received and (2) that the federal government requires accounting be on an accrual basis because the taxpayer keeps an inventory.

#### DISCUSSION:

The taxpayer reports business and occupation tax under the Printing and Publishing classification. The measure of tax for that classification is the "gross income of the business." RCW 82.04.280. RCW 82.04.080 provides that:

"Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in . . . (Underscoring ours.)

"Value proceeding or accruing" is defined by RCW 82.04.090 to mean:

. . . the consideration, whether money, credits, rights, or other property expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. (Underscoring ours.)

Thus, the law mandates that an accrual basis taxpayer realize taxable income when he accrues the income and not when he actually receives payment.

The statutes mentioned above are implemented by two administrative rules. Such rules have the same force and effect as the law. RCW 82.32.300. WAC 458-20-199 (Rule 199) concerns accounting methods. It states in part:

METHOD ONE, CASH BASIS. Only persons engaged in a strictly cash business will be permitted to make returns on a cash receipts basis. . . .

METHOD TWO, ACCRUAL BASIS. Persons operating their business on the accrual basis must report under the

business and occupation tax and the retail sales tax for each tax reporting period the gross proceeds from all cash sales made during such period, together with the total amount of charge sales during such period.

WAC 458-20-197 (Rule 197) deals with when tax liability arises. It states in part:

Gross proceeds of sales and gross income shall be included in the return for the period in which the value proceeds or accrues to the taxpayer.

. . .

ACCRUAL BASIS. When returns are made upon the accrual basis, value proceeds or accrues to a taxpayer as of the time the taxpayer actually receives, becomes legally entitled to receive or in accord with the system of accounting regularly employed enters as a charge against the purchaser, customer, or client the amount of the consideration agreed upon, whether payable immediately or at a definitely determined future time.

As to amounts actually received, however, such amounts do not constitute value proceeding to the taxpayer in the period in which received if the gross proceeds of sales or gross income of the contract or transaction by virtue of which such amounts are received, pursuant to the foregoing, constitute value accruing to the taxpayer during another period. It is immaterial whether the act or service out of which the consideration proceeds or accrues is performed or rendered, in whole or in part, during a period other than the one for which return is made, the controlling factor in this case being the time as of which the taxpayer received, or takes credit for, the agreed consideration.

The rules clearly require, in conformance with the law, that a taxpayer who keeps his accounts on the accrual basis report his tax liability to the state on that same basis.

Neither the law nor the rules make provision for the reason a taxpayer uses a particular accounting system. So the fact that the taxpayer uses the accrual system because the federal government requires it does not operate to relieve him from

the obligation to report his excise taxes to the state on the accrual basis.

The taxpayer's unhappiness with this state of affairs is understandable. It does not seem fair to him that he pay taxes on income that he has not yet received. On the other hand, the accrual method permits the taxpayer to take deductions on expenses not yet paid. The methods of accounting are double edged swords. Neither the taxpayer nor the tax collector can pick and choose the best of either method for purposes of decreasing or increasing the tax burden.

DECISION AND DISPOSITION:

The taxpayer's petition is denied. Because the due date has been extended for the sole convenience of the Department interest on the assessment will be waived for the period from September 30, 1986 through the new due date. The balance of Tax Assessment No. . . . in the amount of \$ . . . , plus unwaived interest of \$. . . , for a total of \$ . . . is due for payment by April 9, 1987.

DATED this 20th day of March 1987.