

Cite as 2 WTD 433 (1987)

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

In the Matter of the Request for)	<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>
Determination of Liability of)	
)	No. 87-100
)	
. . .)	Registration No. . . .
)	
)	

[1] **RULE 156, RCW 82.04.050:** ESCROW BUSINESS. When an escrow business charges its customers for the preparation of an "information return" required by the IRS, the business is making a retail sale.

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.

INTRODUCTION:

The taxpayer, an escrow business, has requested that this office issue a written determination of tax liability. We do so under the authority of WAC 458-20-100(18).

FACTS :

Normoyle, A.L.J.--The taxpayer operates an escrow business. Effective January 1, 1987, according to the taxpayer, persons who close real estate transactions will be required to file an "information return" with the Internal Revenue Service. This return must state the names of the buyer and seller, provide details regarding gross proceeds, and supply other information that the IRS may require. The person closing the transaction must also provide each party with a statement verifying the terms of the return.

The taxpayer anticipates charging the seller, the buyer or both for the added costs involved in preparation of this return. It refers to these charges as "miscellaneous;" it believes them to be of a service, not retail, nature; and it

requests confirmation that it need not collect sales tax on these charges.

ISSUE:

Are the charges for the preparation of these returns taxable as retail sales?

DISCUSSION:

Under RCW 82.04.050(3)(b), charges made for services provided by escrow businesses are considered to be retail sales. RCW 18.44.010(3) and WAC 458-20-156 (Rule 156) contain this definition:

The term "escrow" means any transaction wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof.

The rule goes on to state that escrow businesses are taxable under the B&O Retailing classification and must collect retail sales tax for fees charged for escrow services. The only stated exception is for income received in connection with collection contracts which do not involve an escrow. That income would be taxable under the Service B&O classification and no retail sales tax would be due.

We conclude that the preparation of these information returns, in connection with the closing of real estate transactions, is part and parcel of the escrow business, and charges for such a service are taxable as retail sales. We believe that the above definition of escrow is sufficiently broad to encompass this type of activity. This service is an integral part of the closing of a real estate transaction. If the closing is done by an escrow business, in connection with its escrow services, this return preparation would be a part of the total escrow service.

DECISION:

Based on the facts as presented by the taxpayer, retail sales tax must be charged by an escrow business for the service of providing the IRS with a return containing details of a real estate transaction.

DATED this 31st day of March 1987.