

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

In the Matter of the Petition) D E T E R M I N A T I O
N
For Correction of Assessment of)
)
)
) No. 88-432
)
) Unregistered
)

[1] **RULE 178:** USE TAX -- WATERCRAFT USED AS RESIDENCE -
-HOUSEHOLD GOODS -- PERSONAL EFFECTS. Where a
taxpayer locates a watercraft purchased in another
state upon the waters of the state of Washington and
lives aboard the watercraft, the watercraft is not
exempt from use tax pursuant to RCW 82.12.0251 (WAC
458-20-178(7)(C)) as household goods--personal
effects.

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.

NATURE OF ACTION:

Taxpayer petitions for correction of assessment of use tax on
value of watercraft purchased in another state and used as a
residence in the state of Washington.

FACTS AND ISSUES:

Zagelow, A.L.J. -- The taxpayer purchased the vessel " . . . "
in the state of Minnesota in 1983 and thereafter moved the
vessel to the state of Washington. The taxpayer is presently
living aboard the vessel at moorage leased yearly from . . .
, Washington. The present lease expires January 14, 1989.
The taxpayer has been assessed use tax of \$1,485.54 on the
value of the vessel (\$18,340) by a notice of use tax due dated
July 12, 1988. The due date of the return is August 5, 1988.
The taxpayer petitioned for a correction of the assessment

(\$1,485.54) claiming the vessel is exempt under WAC 458-20-178(7)(C) as household goods and personal effects. The vessel is apparently not presently registered with the state of Washington pursuant to chapter 88.02 Revised Code of Washington.

DISCUSSION:

RCW 82.12.0251 providing the exemption upon which the taxpayer relies states:

The provisions of this chapter shall not apply in respect to the use of any article of tangible personal property brought into the state of Washington by a nonresident thereof for his or her use or enjoyment while temporarily within the state of Washington unless such property is used in conducting a nontransitory business activity within the state of Washington; or in respect to the use by a nonresident of Washington of a motor vehicle or trailer which is registered or licensed under the laws of the state of his or her residence, and which is not required to be registered or licensed under the laws of Washington, including motor vehicles or trailers exempt pursuant to a declaration issued by the department of licensing under RCW 46.85.060; or in respect to the use of household goods, personal effects, and private automobiles by a bona fide resident of Washington or nonresident members of the armed forces who are stationed in Washington pursuant to military orders, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than ninety days prior to the time he or she entered Washington.

For purposes of this section, "state" means a state of the United States, any political subdivision thereof, the District of Columbia, and any foreign country or political subdivision thereof.

Rule 178, WAC 458-20-178, paragraph (7), subparagraph (c) explaining the exemption states:

The use of household goods, personal effects, and private automobiles by a bone fide resident of this state or nonresident members of the armed forces who are stationed in this state pursuant to military

orders, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than ninety days prior to the time such person entered this state.

The watercraft is exempt from use tax if it is "household goods" and/or "personal effects" as the facts reveal the boat was acquired and used by the taxpayer while the taxpayer was a resident of another state and such acquisition and use was more than ninety days prior to the taxpayer entering the state of Washington.

WAC 458-12-270 defines household goods and personal effects as follows:

. . . Household goods and furnishings shall include movable items of necessity, convenience, or decoration, such as bedding, tables, chairs, refrigerators, stoves, freezers, food, clocks, radios, televisions, pictures, tools and equipment used to maintain the residence. It shall include all personal property normally located in or about a residence and used or held to enhance the value of enjoyment of the residence (including its premises). Those items of personal property constructed primarily for use independent of and separate from a residence do not qualify for the exemption (i.e., boats, pickup campers, (pickup campers attached to the vehicle by the methods authorized in department of licenses bulletin, dated January 26, 1965 shall be considered a part of the vehicle and are not taxable as personal property) etc.).

. . . Personal effects shall be construed to mean tangible property which usually ordinarily attends the person. Such articles as wearing apparel, jewelry, toilet articles and articles of similar nature would qualify for this exemption.

[1] As a boat is specifically not a household goods item, and a boat is not an item of tangible personal property which attends the person, the subject vessel is neither an item of household goods or an item of personal effects. Therefore, the taxpayer is not entitled to the exemption from use tax as provided in RCW 82.12.0251 and explained in WAC 458-20-178.

DECISION AND DISPOSITION:

The petition of the taxpayer is denied. The assessed tax in the amount of \$1,485.54 is due for payment by December 22, 1988. The taxpayer is entitled to a credit for sales tax paid in another jurisdiction. If the vessel is not registered in the state of Washington, the watercraft must be registered as provided in chapter 88.02 RCW and the excise tax of chapter 82.29 RCW paid as this vessel clearly has been physically located in the waters of the state of Washington for more than sixty days and is not exempt from registration by RCW 88.02.030, or taxation by RCW 82.49.020.

DATED this 22nd day of November 1988.