

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

In the Matter of the Petition)	<u>D E T E R M I N A T I O N</u>
For Prior Determination of)	
Tax Liability of)	No. 88-425
)	
. . .)	Not Registered
)	
)	

MISCELLANEOUS: RECORD KEEPING REQUIREMENTS --
MICROFILM -- DESTRUCTION OF ORIGINAL RECORDS.
Original records can be destroyed if reproduced on
microfilm and stored pursuant to the requirements
stated herein (similar to IRS Revenue Procedure 81-
46).

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: . . .

NATURE OF ACTION:

Taxpayer requests an advisory determination under WAC 458-20-
100(18) regarding storage of records on microfilm.

FACTS AND ISSUES:

Pree, A.L.J. -- The taxpayer requested an interpretation
regarding storage of records on microfilm and the destruction
of the original records in accordance with IRS Revenue
Procedure 81-46.

DISCUSSION:

The taxpayer, an interstate parent corporation, requests a
prior determination regarding the recordkeeping rules as they
pertain to microfilm reproduction. At this time, the

Department of Revenue has no published administrative rule regarding microfilming records. RCW 82.32.070 states:

Every person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW shall keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of any tax for which he may be liable, which records shall include copies of all federal income tax and state tax returns and reports made by him. All his books, records, and invoices shall be open for examination at any time by the department of revenue. In the case of an out-of-state person or concern which does not keep the necessary books and records within this state, it shall be sufficient if it produces within the state such books and records as shall be required by the department of revenue, or permits the examination by an agent authorized or designated by the department of revenue at the place where such books and records are kept. Any person who fails to comply with the requirements of this section shall be forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department of revenue based upon any period for which such books, records, and invoices have not been so kept and preserved.

Any person claiming a credit against the tax imposed by chapter 82.04 RCW by reason of the provisions of RCW 82.04.435 shall keep and preserve until the claim has been verified or allowed by the department of revenue sufficient books, records and invoices to prove the right to and amount of such claim for credit, and no such claim shall be allowed by the department of revenue unless such books, records and invoices have been kept and preserved.

The issue is whether or not microfilm copies constitute suitable records as may be necessary to determine the amount of any tax. If IRS Revenue Procedure 81-46 is followed, the taxpayer must follow eleven requirements including establishing a system which makes microfilm copies which exhibit a high degree of legibility and readability (if the originals are not kept) of all necessary records accessible to the taxing authority.

This method is acceptable to the Department of Revenue because it continues to require relevant information be available to the Department of Revenue from which the correctness of a taxpayer's tax liability can be determined while providing a convenient alternative to the taxpayer to meet the suitable records requirement.

Until the Department of Revenue determines by letter or rule otherwise, records may be microfilmed, including general books of accounts such as cash books, journals, voucher registers, ledgers and like documents, as long as such microfilmed records are authentic, accessible, and readable and the following requirements are fully satisfied:

- a. Appropriate facilities are to be provided for the preservation of the films for the periods required and open to examination and the taxpayers agree to provide transcriptions of any information on microfilm which may be required for verification of tax liability;
- b. All microfilmed data must be indexed, cross referenced, and labeled to show beginning and ending numbers and to show beginning and ending alphabetical listing of documents included, and systematically filed to permit ready access;
- c. Taxpayers must make available upon request of the department, a reader/printer in good working order at the examination site for reading, locating and reproducing any record concerning Washington State tax liability that is maintained on microfilm;
- d. Taxpayers must set forth in writing the procedures governing the establishment of a microfilm system, and the individuals who are responsible for maintaining and operating the system with appropriate authorization from the Boards of Directors;
- e. The microfilm system must be complete and must be used consistently in the regularly conducted activity of the business;
- f. Taxpayers must establish procedures with the appropriate documentation so the original

document can be followed through the microfilm system;

- g. Taxpayers must establish internal procedures for microfilm inspection and quality assurance;
- h. Taxpayers are responsible for the effective identification, processing, storage, and preservation of microfilm, making it readily available for as long as the contents may become material in the administration of any state revenue law;
- i. Taxpayers must keep a record identifying by whom the microfilm was produced;
- j. When displayed on a microfilm reader (viewer) or reproduced on paper, the material must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers;
- k. All production of microfilm and processing duplication, quality control, storage, identification, and inspection thereof must meet industry standards as set forth by the American National Standards Institute, National Micrographics Association, or National Bureau of Standards.

RULING

If the taxpayer follows the procedures and meets the requirements set forth above, its microfilmed records will constitute suitable records for the purposes of RCW 82.32.070.

This legal opinion may be relied upon for reporting purposes and as support of the reporting method in the event of an audit. This ruling is issued pursuant to WAC 458-20-100(18) and is based upon only the facts that were disclosed by the taxpayer. In this regard the department has no obligation to ascertain whether the taxpayer has revealed all of the relevant facts or whether the facts disclosed were actually

true. This legal opinion shall bind this taxpayer and the department upon those facts. However, it shall not be binding if there are relevant facts which are in existence but not disclosed at the time this opinion was issued; if, subsequently, the disclosed facts are ultimately determined to be false; or if the facts as disclosed subsequently change and no new opinion has been issued which takes into consideration those changes. This opinion may be rescinded or revoked in the future, however, any such rescission or revocation shall not affect prior liability and shall have a prospective application only.

DATED this 17th day of November 1988.