

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 Prior Determination of tax)
Liability of:) No. 89-435
) . . .) Registration No. . . .
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)

[1] RULE 250: REFUSE -- SOLID WASTE COLLECTION TAX --
RECYCLING -- YARD WASTE. Yard waste is collected
primarily for recycling and is not subject to either
the refuse collection tax(3.6%), or the solid waste
collection tax (1%), when the yard waste is
separately collected, separately billed, and
separately delivered, to a facility not a landfill
or other disposal site, for the purpose of making
compost which is later resold.

[2] RULE 250: REFUSE-SOLID WASTE COLLECTION TAX --
RECYCLING -- CURBSIDE RECYCLING PICKUP CHARGES --
CHARGES IN THE RATE BASE. The amount of the refuse-
solid waste collection charge of a city internally
identified in its rate base as a charge for the
curbside pickup of recyclables is not subject to
either the refuse collection tax(3.6%) or the solid
waste tax (1%); Provided, the curbside recycling
pickup service is actually performed.

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:

The taxpayer, a refuse-solid waste collection business, requests a determination of prior tax liability of the refuse-solid waste taxes.

FACTS AND ISSUES:

Zagelow, A.L.J. -- The taxpayer is a contract refuse-solid waste collection business for the City of Pursuant to its contract with the city, the petitioner provides a full range of collection services. This petition involves two of those services and the taxability of those services for refuse-solid waste tax purposes.

The first service is yard waste collection services. The petitioner collects yard waste for customers who voluntarily subscribe to the service and the customer is billed an additional amount for this service. The yard waste collected may not, as per the contract, be deposited in a landfill or other disposal site. The material is taken to a site where it is processed into compost. The compost is eventually resold. Petitioner alleges the yard waste service is collection of materials primarily for recycling and is therefor, not subject to either the 3.6% refuse collection tax, or the 1% solid waste collection tax.

The second service is a curbside pickup recycling service of recyclable materials other than yard waste. In this instance. the petitioner is the billing agent for the city, it does not perform the service. The actual service is performed by a third party recycling company. The city in its rate base has identified an amount for this service and charges each refuse-solid waste customer this amount. The petitioner alleges this separately identifiable amount is an amount charged for collection of materials primarily for recycling and is not subject to either the 3.6% refuse collection tax or the 1% solid waste collection tax.

DISCUSSION:

RCW 82.18.010(3), as amended by chapter 431 Laws of 1989, provides as follows:

(3) "solid waste" means garbage, trash, rubbish, or other material discarded as worthless or not economically viable for further use. The term does

not include hazardous or toxic waste nor does it include material collected primarily for recycling or salvage. (Emphasis added.)

The refuse-solid waste collection taxes are imposed upon a customer of a refuse-solid waste collection business for collection services of "solid waste". Therefor, the tax does not apply to materials collected primarily for recycling as those charges are not charges for the collection of "solid waste".

RULING:

[1] Yard waste is collected primarily for recycling and is not subject to either the refuse collection tax(3.6%), or the solid waste collection tax (1%), when the yard waste is separately collected, separately billed, and separately delivered, to a facility not a landfill or other disposal site, for the purpose of making compost which is later resold.

[2] The charge of a city internally identified in its rate base as a charge for curbside pickup of materials collected primarily for recycling is not subject to either the refuse collection tax(3.6%) or the solid waste tax (1%); Provided, the service is actually performed. The service is performed when recyclables are actually picked-up on a regular scheduled basis. To the extent a charge for curbside service is levied but no actual collection and removal services are performed, the charge is a "base" charge subject to the 3.6% refuse collection tax, but not the 1% solid waste tax.

This ruling is issued pursuant to WAC 458-20-100(18) and is based upon only the facts that were disclosed by the petitioner. In this regard, the Department has no obligation to ascertain whether the petitioner has revealed all of the relevant facts or whether the facts disclosed are actually true. This legal opinion shall bind this taxpayer and the Department on this facts. However, it shall not be binding if there are relevant facts which are in existence but have not been disclosed at the time this opinion was issued; if, subsequently, the disclosed facts are ultimately found 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

DETERMINATION (Cont)
No. 89-435

4

Registration No. . . .

not affect prior liability and shall have prospective
application only.

DATED this 25th day of August 1989.