

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. 89-339
)
 . . .) Real Estate Excise Tax
)
)
)

REAL ESTATE EXCISE TAX: RCW 82.45.100 -- INTEREST
AND PENALTIES --MANDATORY. RCW 82.45.100 provides
for the mandatory imposition of penalties and
interest when the Real Estate Excise Tax is not paid
on time.

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 protests the imposition of interest and penalties on
the Real Estate Excise Tax on the sale of standing timber.

FACTS AND ISSUES:

Hesselholt, A.L.J. -- . . . [taxpayer] protests the
interest and penalty imposed on the real estate excise tax
imposed on the sale of standing timber for a fixed sum.
Taxpayer complains, generally, that he had no knowledge of the
tax, and that the state did not notify him of the tax, and
that he did not receive payment in full on the sale date of
the transfer.

DISCUSSION:

The Real Estate Excise Tax is imposed by RCW 82.45.060. It is
a lien on the property, and it is the obligation of the

seller. RCW 82.45.070, RCW 82.45.080. Part of the definition of "sale" is "any conveyance, grant assignment . . . or transfer of the ownership of or title to real property, including standing timber" RCW 82.45.010. The tax is payable at the time of sale. RCW 82.32.100. In WAC 458-61-090, the rule explains that the tax is due as of the transaction date, regardless of whether the contract or conveyance documents are recorded at that time. Thus, whether or not one has received full payment has no effect on the date the tax is due.

The law provides as follows:

(1) The tax imposed under this chapter [real estate excise tax] is due and payable immediately at the time of sale, and if not paid within thirty days thereafter shall bear interest at the rate of one percent per month from the time of sale until the date of payment.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer within thirty days of the date due, there shall be assessed a penalty of five percent of the tax; if the tax is not received within sixty days of the date due, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within ninety days of the date due, there shall be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection shall be collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department shall assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. . . . (Emphasis added.)

RCW 82.32.100.

Under the statutes, the assessment of interest and penalties are mandatory. The Department of Revenue, as an

administrative agency, does not have the discretion to waive mandatory penalties and interest. The percentages of penalty and interest is set out in the statute.

While we understand that taxpayer may have had no knowledge of the tax, we are unable to grant relief. Washington has a self-assessing tax structure. Taxpayers are expected to know the tax consequences of their actions. The Department of Revenue maintains a large staff throughout the state that is willing to answer questions at no charge to taxpayers. The Department maintains a Taxpayer Information and Education Section that taxpayers can call or write for answers to their tax questions.

DECISION AND DISPOSITION:

Taxpayer's petition is denied.

DATED this 28th day of June 1989.