

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 Refund of)
) No. 89-370
)
 . . .) Registration No. . . .
)
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RULE 146: RCW 82.04.4293--B&O TAX EXEMPTIONS--
MUNICIPAL CORPORATIONS--WHAT CONSTITUTES. A
municipal corporation, for purposes of RCW
82.04.4293 and Rule 146, means any entity organized
as such under the laws of the state of Washington.

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 assessment of tax on the interest earned
on bonds issued by school and water districts.

FACTS AND ISSUES:

Hesselholt, A.L.J. -- Taxpayer is a savings and loan
institution. Its records were audited for the period January
1, 1985, through September 30, 1988. . . . Taxpayer
protests that portion of the audit assessing Service business
and occupation tax on the interest it received from bonds
issued by school and water districts. . . .

The auditor's Detail of Differences states that

RCW 82.04.4293 and WAC 458-20-146 (Rule 146),
attached, provide a deduction from gross income for
interest received on all obligations of the State of
Washington, its political subdivisions, and

municipal corporations organized pursuant to the laws thereof.

Based on the statute and rule referenced above, interest received on obligations of the State of Washington, and local governing bodies such as cities and counties is deductible from gross income. Interest received from port districts, water districts, school districts, etc., is not deductible.

Interest received from port districts, water districts, school districts, etc., had been deducted in error. This schedule asserts tax due on such deductions claimed in error.

DISCUSSION:

RCW 82.04.4293 provides as follows:

In computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, amounts derived from interest paid on all obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. (Emphasis added.)

Rule 146 provides a deduction from B&O tax for "Interest received on obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof." There is no further discussion or definition of these terms in the rule.

RCW 82.04.4293 refers to "municipal corporations organized pursuant to the laws [of Washington]." Such a term is clearly intended to have a broader meaning than "municipal corporation" in the strict sense. First, when the legislature means to specify that only cities or counties were to have a certain power under the Revenue Act, they are certainly able to do so. For example, RCW 82.14 grants to "cities and counties" the authority to assess retail sales and use tax on retail sales. RCW 82.14.030. RCW 82.14A grants "cities and towns" the authority to tax certain financial institutions. RCW 82.14A.010.

Second, and more importantly, the term "municipal corporation" is used throughout the Washington statutes to refer to a

broader range of entities than just cities. For example, the Constitution, Article XI, S.15, states, in part

All moneys, assessments and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation. . . .

This provision clearly uses the term "municipal corporation" to encompass more than simply cities, towns, or counties. Further, several code sections refer to various entities as municipal corporations or political subdivisions. For example:

Fire protection districts are political subdivisions of the state and shall be held to be municipal corporations within the laws and Constitution of the state of Washington. . . .

RCW 52.12.011.

Municipal corporations, to be known as public utility districts, are hereby authorized for the purposes of this act. . .

RCW 54.04.020.

Municipal corporations, to be known as public hospital districts, are hereby authorized and may be established within the several counties of the State as hereinafter provided.

RCW 70.44.010.

RCW 82.04.4293 refers to "municipal corporations organized pursuant to the laws [of Washington]." The exemption granted in the statute is clearly intended to apply to a broader class of entities than cities or counties. The term "municipal corporation" can be used in either a broad or narrow sense. Roza Irrigation Dist. v. Washington, 80 Wn.2d 633, 635 (1972). In its broader sense, it applies to what have been called "quasi-municipal corporations," examples of which are given above. Therefore, we find that any entity considered to be a municipal corporation under the laws of the state of Washington is a municipal corporation for purposes of this statute.

DECISION AND DISPOSITION:

DETERMINATION (Cont)
No. 89-370

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Registration No. . . .

Taxpayer's petition is granted.

DATED this 18th day of July 1989.