

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

In the Matter of the Request for) D E T E R M I N A T I O N
Ruling of Tax Liability of)
)
) No. 89-304
)
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. . .) Registration No. . . .
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[1] **RULE 119:** B&O TAX -- RETAIL SALES TAX -- SALE OF MEALS
BY A CONDOMINIUM ASSOCIATION TO UNIT OWNERS. Where a
condominium association includes in its offer of services
to owners a stated number of meals for an established
price, a retail sale occurs.

[2] **MISC:** Condominium associations are not similar
organizations to fraternities and sororities. Doctrine
of ejusdem generis applies.

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 requests a ruling of tax liability under the
provisions of WAC 458-20-100 (18), regarding its sales of meals to
residents of the condominium.

FACTS AND ISSUES:

Dressel, A.L.J. -- The taxpayer is an association of condominium
owners. In addition to specific charges for such things as
maintenance of general areas, and certain management fees, the
taxpayer offers its owners a variety of "special services".
Included in these special services are meals, served in a common
dining area. Owners wishing to take advantage of this service are
entitled to one meal for each day of the month. The charges are
pre-established, but are reviewed semi-annually, and may be
adjusted on thirty days notice.

The taxpayer previously inquired of the Department as to its liability, and received a detailed letter, dated June 29, 1988, from the Taxpayer Information and Education division of the Department. From the rather lengthy list of activities addressed in that letter, the taxpayer requests a ruling on only one issue.

DISCUSSION:

[1] WAC 458-20-119 (Rule 119), provides the essential instructions regarding the taxable status of persons providing meals. In pertinent part, the rule states

Sales of meals by hotels, restaurants, cafeterias, clubs, boarding houses and other eating places are subject to the retail sales tax. (Emphasis supplied.)

Thus, the condominium association, as the provider of meals for a charge, at a common dining area, is governed by the above language. The charges it makes to the unit owners represent retail sales, and are properly subject to the retailing B&O tax and the retail sales tax.

[2] With its request, the taxpayer included a copy of Rule 119, with the section applicable to fraternities and sororities highlighted. By inference, we presume that the taxpayer feels it qualifies for non-taxable status as a similar organization. We disagree.

The ejusdem generis principle of statutory interpretation requires that general terms appearing in a statute in connection with precise, specific terms should be accorded meaning and effect only to the extent that the general terms suggest items or things similar to those designated by the precise or specific terms. State v. Thompson, 38 Wn.2d, 774 (1951). We find this principle to be applicable to the interpretation of the administrative code as well as to statutory language. Accordingly, we find that an association made up of owners of individual condominium units is significantly dissimilar to a fraternity or sorority in which the members generally live in an atmosphere more akin to a household. Also, the rule refers to groups where the individuals "reside in one place and jointly share the expenses of the household including (the) expense of meals . . ." This is obviously not the case with the condominium association.

DECISION AND DISPOSITION:

The taxpayer is advised that the instructions it received in the Department's letter of June 29, 1988 are correct. The income received from unit owners for meals furnished to them is subject to retailing business tax and the retail sales tax.

DATED this 9th day of June 1989.