

Cite as 8 WTD 387 (1989)

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 Ruling of Tax Liability of)
) No. 89-514
)
) Registration No. . . .
) Request for Ruling

[1] RULE 189: B&O TAX - PARKS AND RECREATION DEPARTMENT
- PAYMENT FROM CITY IN LIEU OF TAXES. Payments from
a city budget to a county parks and recreation
department, which are in lieu of a special property
tax on city residents and which allow city residents
to use county parks and recreation facilities at the
same rates as county residents, are not taxable
under the business and occupation tax.

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:

Petition concerning the taxability of a flat fee from a city
budget - in lieu of a tax - to allow its residents to use
county park facilities at the same cost of county residents.

FACTS:

Bauer, A.L.J.-- The taxpayer is a county parks and recreation
department. In November 1986, the county passed a levy taxing
its residents for the maintenance and operation of that
department. One of the cities located in the county, however,
opted not to tax the property of its residents, but instead
entered into an agreement whereby it would pay a flat fee from

its budget which would enable its residents to use the county's park facilities at the same cost of county residents.

ISSUE:

Whether payments from a city budget to a county parks and recreation department, which are in lieu of a special property tax on city residents and which allow city residents to use county parks and recreation facilities at the same rates as county residents, are taxable.

DISCUSSION:

WAC 458-20-189 (Rule 189) provides in pertinent part:

(3) Counties, cities and other municipal subdivisions are taxable with respect to amounts derived, however designated, from any "utility or enterprise activity" for which a specific charge is made.

Because amounts received from the city budget do not constitute or replace specific charges for the activities offered by the taxpayer (such as a \$2.00 charge for admission to a swimming pool), the amount received will not be taxable. The amounts received from the city budget are in lieu of tax dollars which the city elected not to assess from its residents, but pay from its budget instead.

Tax will still apply to those amounts received from the city's residents when "specific charges" are made for activities in which they are permitted to take part.

RULING:

[1] Payments from a city budget to a county parks and recreation department, which are in lieu of a special property tax on city residents and which allow city residents to use county parks and recreation facilities at the same rates as county residents, are not taxable under the business and occupation tax.

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 are actually true. This legal opinion shall bind this taxpayer and the Department upon these 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 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 23rd day of November 1989.