

Cite as Det. No. 91-131, 20 WTD 134 (2001)

BEFORE THE APPEALS DIVISION  
DEPARTMENT OF REVENUE  
STATE OF WASHINGTON

In the Matter of the Petition For Ruling of the	)	<u>D E T E R M I N A T I O N</u>
Tax Liability of	)	
	)	No. 91-131
	)	
...	)	Registration No. ...

WAC 458-20-17902 (RULE 17902): **BROKERED NATURAL GAS -- VALUE OF GAS CONSUMED OR USED.** The "value of gas consumed or used" includes all the costs to get the natural gas to the consumer including brokerage fees. There may be an exclusion for all or part of the transportation costs if they have been subject to public utility 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.

NATURE OF ACTION:

Taxpayer has requested a ruling by Department of Revenue to determine what is the proper amount to compute the use tax on brokered natural gas.<sup>1</sup>

FACTS AND ISSUES:

Norton, A.L.J. -- The taxpayer is a broker of natural gas in the state of Washington. As a service to its industrial customers, they have been filing the use tax returns for their customers and paying the tax. They collect the tax from the customers. This service is provided at no cost to the customers.

The taxpayer itemizes the bill to the customers. The bill could include:

- Purchase price of the natural gas
- Transportation charges
- Import taxes
- Agency (Broker) fee

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<sup>1</sup> Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

ISSUE:

The issue is whether all of the above are included in the base for the computation of the use tax.

DISCUSSION:

Under the statutes [RCW 82.12.022 and 82.04.230], both the city and state use tax on brokered natural gas is applied to "value of gas consumed or used."

WAC 458-20-17902(1) defines that phrase as follows:

(b) "Value of gas consumed or used" as used in this section shall be the purchasing price of the gas to the consumer and generally shall include all or part of the transportation charges as explained later.

The intent of the statute and rule is to make the tax on brokered natural gas as similar to the public utility tax on natural gas as possible. Therefore, this value is generally the total delivered price to the consumer.

In the facts that you have given us, all of the separate elements of the bill would be subject to the tax. However, there may be an exception as to whether the transportation charge is totally subject to the use tax. To prevent double taxation by both a utility tax and a brokered natural gas tax, there is provision to exclude any transportation charges that have been subject to the public utility tax.

If you were to charge for your services in preparing the use tax returns, we would not consider that charge subject to the use tax. It is a service that is not connected with the delivery of gas to the consumer.

DECISION AND DISPOSITION:

The tax base for applying the city and state use tax for brokered natural gas is the "value of gas consumed or used." This includes all the costs to get the natural gas to the consumer including agency or brokerage fees. There may be an exclusion for part of the transportation costs as discussed above and in Rule 17902.

DATED this 20th day of May, 1991.