

Cite as Det. No. 93-310, 14 WTD 063 (1994).

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

In the Matter of the Petition)	<u>D E T E R M I N A T I O N</u>
For Correction of Assessment of)	
)	No. 93-310
)	
. . .)	Unregistered

RULE 178: USE TAX -- FARM -- PERSONAL PROPERTY -- SALE OF -- VALUATION. The "value of the article used" for use tax purposes is the consideration paid to a seller for tangible personal property. Where a farm was sold with farm equipment, an itemized closing statement signed by both buyer and seller, which attributed a particular dollar amount to the equipment, is persuasive evidence of the value of that equipment.

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:

Protest of use tax on farm equipment.

FACTS:

Dressel, A.L.J. -- Taxpayers purchased a Washington farm from sellers. Included with the real property was some personal property in the form of farm equipment. In conjunction with the sale, the Department of Revenue (Department) assessed use tax and late-payment penalties on the farm equipment, based on a valuation of \$38,500. Taxpayers appeal, asserting an inaccurate valuation of the personal property.¹

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

Taxpayers and sellers entered into an earnest money agreement with respect to the sale of the property. It reflected a total purchase price of \$138,500. Subsequently, the parties executed an addendum to the sale agreement on which it was written, in part, "Sellers values used on the real estate, fixtures and misc. equipment may differ from the values the purchasers may apply." At the closing of the transaction, taxpayers (buyers) and sellers signed separate closing statements. Both statements itemized the value of the personal property transferred at \$38,500. Concomitant with the closing, sellers executed a real estate excise tax affidavit.² On it the farm equipment was again listed as having a value of \$38,500. Sellers paid real estate excise tax (REET) on \$100,000.

Taxpayers contend that much of the farm equipment is worthless junk. They contend it is worth \$8,300. They say that is the figure listed by the county assessor on their 1992 personal property tax farm return.

ISSUE:

What is the proper measure of use tax when both real and personal property are sold and the parties disagree as to the value of the personal property?

DISCUSSION:

WAC 458-20-178 (Rule 178) reads, in part:

(2) In general, the use tax applies upon the use of any tangible personal property, the sale or acquisition of which has not been subjected to the Washington retail sales tax." WAC 458-20-178 (Rule 178).

. . .

(13) Value of the article used. The [use] tax is levied and collected on an amount equal to the value of the article used by the taxpayer. The term "value of the article used" is defined by the law as being the total of the consideration paid or given by the purchaser to the seller for the article used plus any additional amounts paid by the purchaser as tariff or duty with respect to the importation of the article used. In case the article used was extracted or produced or manufactured by the person using the same or

²The affidavit was signed by sellers on January 30, 1992.

was acquired by gift or was sold under conditions where the purchase price did not represent the true value thereof, the value of the article used must be determined as nearly as possible according to the retail selling price, at the place of use, of similar products of like quality, quantity and character

Taxpayers here are suggesting, implicitly, that the retail selling price of the farm equipment is \$8,300 rather than \$38,500. As evidence they have submitted a copy of their 1992 county personal property tax farm return. It does, indeed, show farm equipment assessed at \$8,300. The equipment described consists of two wind machines, a ladder, spray equipment, and a tractor.

Exhibit A to the earnest money agreement lists the farm equipment included in the sale. The items appearing on the list are:

MF-35 tractor
 Ford tractor with mower and rake
 One ton '54 Chevrolet truck (not operating)
 Allied Giratte (orchard ape)
 400 gallon power blast pto mounted sprayer
 Rear mount sprayer with side mount boom for MF-35
 Edwards forklift, front ME for MF-35
 Single offset disc
 Brush hog SC-59 rotary mower
 Cosmo M-1 rotary mower
 Six foot flayer
 Rear blade 3Pt
 Orchard mate tandem offset disc
 Two Tropic breeze wind machines
 2" irrigation pump with 3 phase 10 hp motor, together with all underlying pipeline systems and miscellaneous handlines
 Misc. orchard equipment, ladders, buckets, boxes, etc. as shown
 10' link harrow
 10' drag for pasture
 2 wheel used pull trailer
 Tandem pull trailer
 Orchard heating system as installed with pots
 Miscellaneous fuel and propane tanks as shown
 Miscellaneous equipment yet to be identified

Obviously, the list of property on Exhibit A is considerably longer than the list on the farm return. While it may be that the five items listed on the farm return are worth \$8,300, it is entirely plausible that all of the personal property items sold with the farm, collectively, are worth \$38,500. Taxpayers' evidence, in our judgment, falls well short of establishing

\$8,300 as the total value for all farm equipment sold in the subject transaction.

We believe the closing statements are the best evidence of value before us. The sellers signed one on which they acknowledged a value for the farm equipment of \$38,500. Taxpayers signed a closing statement indicating that they "approved and received" it on January 16, 1992. That statement also listed the value of the farm equipment at \$38,500. Notwithstanding taxpayers' protestations that they were asked to "quickly sign," which they did "inadvertently," we find the closing statements to be the best evidence of value submitted in this case. They are the best evidence of "the consideration paid or given by the purchaser to the seller" for the articles at issue. See Rule 178, subsection 13, supra. If taxpayers did not intend to give their assent to a personal property valuation of \$38,500, they should have been more circumspect in their handling of the closing statement. They should have realized their signatures had legal significance.

DECISION AND DISPOSITION:

The taxpayers' petition is denied.

DATED this 30th day of November, 1993.