

Cite As Det. No. 96-162, 16 WTD 99 (1996)

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

In the Matter of the Petition For Correction of	)	<u>D E T E R M I N A T I O N</u>
Assessment of	)	
	)	No. 96-132
	)	
...	)	Registration No. . . .
	)	FY. . . /Audit No. . . .
	)	
	)	

RCW 82. 08.02565 -- MANUFACTURING EQUIPMENT AND MACHINERY EXEMPTION -- LOGGING. Because logging is an extractive activity, not a manufacturing activity, equipment purchases to be used in logging operations are not eligible for exemption.

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:

Petition for refund of retail sales tax paid on equipment to be used in taxpayer's logging operation.<sup>1</sup>

FACTS:

Breen, A.L.J. -- The taxpayer is a full-time logger. On September 22, 1995, the taxpayer purchased equipment to be exclusively used in his logging operation. Retail sales tax was paid in relation to the purchase. The taxpayer now requests a refund.

The taxpayer states that "[s]ince logging is a manufacturing process, the [equipment] qualifies for . . . exemption." He relies on an article in a trade journal in which it is indicated that equipment similar to that purchased by the taxpayer would be eligible for exemption.

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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:

Whether equipment purchased for use in a logging operation is eligible for the manufacturing machinery and equipment exemption.

## DISCUSSION:

RCW 82.08.02565 provides a sales tax exemption for sales to a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation. Thus, the exemption has four required elements: (1) a sale to a manufacturer or processor for hire; (2) of machinery and equipment; (3) used directly; (4) in a manufacturing operation.

Is logging a manufacturing activity?<sup>2</sup> WAC 458-20-135 (Rule 135) addresses the activity of logging. In pertinent part, Rule 135 states:

The word `extractor' means every person who, from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use . . . fells, cuts or takes timber, Christmas trees or other natural products . . . .

. . .

The following examples are illustrative of operations which are included within the extractive activity:

(1) Logging operations, including the bucking, yarding, and loading of timber or logs after felling, as well as the actual cutting or severance of trees . . . .

(Emphasis added.)

Rule 135 unequivocally states that logging is an extractive activity. The exemption provided by RCW 82.08.02565 is restricted to manufacturing activities. Thus, the manufacturing machinery and equipment exemption is not applicable to the taxpayer's purchase of equipment to be used in a logging operation.

As for the trade journal article in which it is indicated that the taxpayer's purchase should be eligible for exemption, this unfortunate misinformation is apparently based on a particular

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<sup>2</sup> A processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon that person's own materials. See, WAC 458-20-136. Thus, for purposes of the present analysis there is no salient difference between the activities of manufacturing or processing for hire.

discussion that occurred on the Senate floor prior to the passage of the exemption.<sup>3</sup> It is true that where statutory language is ambiguous, statements made in response to questions on the floor may be taken as evidence of a particular Senator's opinion as to the meaning of the legislation. See, Snow's Mobile Homes, Inc. v. Morgan, 80 Wn.2d 283, 494 P.2d 216 (1972). If the statute was ambiguous, this legislative history might be of some assistance in construing it. However, a statute that is plain needs no construction. King County v. Seattle, 70 Wn.2d 988, 425 P.2d 887 (1967).

#### DECISION AND DISPOSITION:

The taxpayer's petition is denied.

DATED this 16th day of August, 1996.

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<sup>3</sup> Regarding which particular SIC codes should be eligible for exemption.