

Cite as Det. No. 14-0240, 34 WTD 172 (2015)

BEFORE THE 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. 14-0240
. . .)	
)	Registration No. . . .
)	

[1] RULE 173; RCW 82.04.050(2)(a); RCW 82.08.020(1): RETAIL SALES TAX – TRUCK DETAILING – SUPPLIES CONSUMED. Purchases of polishing compounds used in providing truck detailing services were subject to retail sales tax even though they were separately charged to customers because the compounds were consumed in the process of providing the detailing services.

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.

Eckholm, A.L.J. – A truck detailing business appeals an assessment of use tax and/or deferred retail sales tax on its purchase of polishing compound supplies used in performing its detailing services, asserting that the specialty polishing compounds¹ are resold to the customer as part of the detailing service. The taxpayer’s petition is denied.²

ISSUE

Whether the taxpayer is liable for use tax and/or deferred retail sales tax on the purchase of polishing compound supplies consumed in the course of performing truck detailing services.

FINDINGS OF FACT

[Taxpayer] specializes in truck detailing services, including interior detailing, and exterior buffing, waxing, polishing, and sanding. . . . For additional fees, the taxpayer offers its customers the option of choosing specialty polishing compounds to be used in providing its detailing services.

¹ [The holding of this case is limited to the taxability of “polishing compounds,” which are abrasive compounds that affect the outer layer of paint, and is to be distinguished from waxes, which are products that adhere to paint and provide a protective coating. Because the taxability of waxes is not at issue in this case, this determination does not render an opinion on the taxability of those items.].

² Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

The Department of Revenue (Department) Audit Division reviewed the taxpayer's records for excise tax purposes for the period January 1, 2010, through December 31, 2013. The auditor discovered that the taxpayer had not paid retail sales tax on its purchases of the polishing compounds used in performing its detailing services and, as a result, issued an assessment against the taxpayer that included, among other assessments, use tax and/or deferred retail sales tax due on the polishing compound purchases.³

The taxpayer timely appealed the assessment of use tax and/or deferred retail sales tax, asserting that the purchases of the polishing compounds were for resale to its customers and, therefore, exempt from retail sales tax. The taxpayer indicated in its appeal petition that the customers choose the specialty polishing compounds because they provide protection from dirt and other road chemicals, and minimize deterioration of the vehicle's metal.

ANALYSIS

The retail sales tax is imposed by RCW 82.08.020 on retail sales as defined in RCW 82.04.050. "Retail sale" includes "the charge made for tangible property *consumed*" and the associated labor and services for the "installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers," RCW 82.04.050(2)(a) (emphasis added). WAC 458-20-173 is the Department's administrative rule describing how the retail sales tax applies to those, such as the taxpayer, who are in the automotive detailing business.

WAC 458-20-173 (Rule 173) provides in part:

Persons engaged in the business of installing, cleaning, . . . repairing or otherwise altering or improving tangible personal property of consumers or for consumers are required to collect the retail sales tax upon the total charge made for the rendition of such services, even though no tangible personal property in the form of materials or supplies is sold or used in connection with such services. Where tangible personal property in the form of materials and supplies is sold or used in connection with such services, the retail sales tax applies to the total charges made for the sale of the materials and supplies and the services rendered in connection therewith.

The following are illustrative of services upon which the retail sales tax applies to the total charge made to consumers:

. . .

Automobile repairing, washing and painting;

. . .

The retail sales tax does not apply to sales of materials which are resold as a part of the articles of tangible personal property being repaired, altered or improved. . . . [T]he retail sales tax will not apply to purchases such as:

(1) Parts or paint by an automotive repairman;

. . .

On the other hand the retail sales tax does apply to the purchase of all other supplies which may be consumed and utilized by such persons in the rendition of such

³ Document No. 201414951, issued on April 11, 2014, included assessments of retail sales tax of \$. . . , retailing business & occupation (B&O) tax of \$. . . , use tax and/or deferred sales tax of \$. . . , retailing of interstate transportation equipment B&O tax of \$. . . , a small business credit of \$. . . , interest of \$. . . , and an assessment penalty of \$. . . , for a total amount of \$. . .

services, such as fuel, lubricant, machines, hand tools, stationery and other supplies and equipment.

...

(Emphasis added.)

The taxpayer asserts that retail sales tax does not apply to its purchases of the polishing compound supplies because it resells them to the buyers of its services as evidenced by the additional charges its customers pay. The issue in this appeal is whether the taxpayer can avoid this tax liability by charging its customers additional fees for its consumable supplies. This exact issue was addressed in Det. No. 91-128, 11 WTD 327 (1992), where the taxpayer, a watercraft repair business, charged its customers for the supplies it used in performing its services. Citing Rule 173, the Department held that the materials consumed in the repair process (including paint thinner, sand for sand blasting, abrasives, rags, coveralls, mask paper, tape and gloves) that were purchased by the taxpayer to perform the repairs, were subject to deferred retail sales tax even though they were separately charged to customers. 11 WTD at 330. Like the taxpayer in 11 WTD 327, the taxpayer, here, consumes the polishing compounds in performing its detailing services. The polishing compounds are forms of abrasive and exterior treatments that the taxpayer uses in providing its detailing services. *See* 11 WTD at 330. The compounds are not materials that are resold as a part of the trucks that are polished and detailed. *See* RCW 82.04.050(1)(a)(ii) (excluding from “retail sale” items that become a component of tangible personal property of a consumer being repaired or improved by a taxpayer).

The taxpayer did not purchase the polishing compound supplies for resale because it made intervening use of the supplies in performing its detailing services. *See* RCW 82.04.050(1)(a)(i), (b). As a consumer of the supplies, the taxpayer was liable for payment of the retail sales tax on the purchases. RCW 82.08.020(1). The taxpayer’s petition is denied.

DECISION AND DISPOSITION

The taxpayer’s petition is denied.

Dated this 28th day of July 2014.