

Cite as 5 WTD 65 (1988)

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

In the Matter of the Petition for)	<u>D</u> <u>E</u> <u>T</u> <u>E</u> <u>R</u> <u>M</u> <u>I</u> <u>N</u> <u>A</u> <u>T</u> <u>I</u> <u>O</u> <u>N</u>
Determination of Tax Liability of)	
)	No. 88-26
)	
. . . )	Registration No. . . .
)	
)	

**RULE 195:** SALES TAX -- SELLING PRICE -- SUPERFUND  
CHARGE. The superfund charge of \$0.002 per gallon of  
petroleum products is subject to sales tax. It is not a  
tax on the consumer.

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:

The taxpayer has asked for a ruling on whether the superfund charge  
of \$0.002 per gallon is subject to sales tax when selling.

ISSUE:

Potegal, A.L.J. -- The issue in this matter is whether a taxpayer  
selling petroleum products subject to sales tax should collect  
sales tax on that portion of the price attributable to the  
superfund charge of \$0.002 per gallon.

DISCUSSION:

The sales tax is measured by the selling price. RCW 82.08.020.  
The selling price is defined by RCW 82.08.010(1) to be

the consideration ... expressed in the terms of money  
paid or delivered by a buyer to a seller without any  
deduction on account of ... taxes ... or any other  
expense whatsoever paid or accrued ...

Thus, amounts charged by a seller to a buyer, including taxes which the seller or anyone else other than the buyer is obligated to pay, are subject to sales tax.

The superfund charge of \$0.002 is an enviromental tax imposed by the federal government at 26 U.S.C. + 4611. Persons liable for the tax include refinery operators, importers, and exporters and users of crude oil.

Since the superfund charge is not imposed as a tax on the retail purchaser of petroleum products, it is part of the selling price and is subject to sales tax.

#### DECISION:

A taxpayer selling petroleum products subject to sales tax must collect sales tax on that portion of the price attributable to the superfund charge of \$0.002 per gallon.

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 12th day of February 1988.