

Cite as Det. No. 15-0196, 36 WTD 164 (2017)

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. 15-0196
)	
...)	Registration No. ...
)	

[1] Rule 244; RCW 82.08.0293: RETAIL SALES TAX EXEMPTION FOR FOOD AND FOOD INGREDIENTS - EXCEPTION FOR PREPARED FOOD - BAKERY ITEMS. Savory pies and rolls, filled with meat, cheese and/or vegetables, sold by a restaurant, deli, or bakery, are not exempt “bakery items” as defined in RCW 82.08.0293(2)(b)(ii)(C) and Rule 244, because they are sold as meals and do not fall within the ordinary plain meaning of “pies” or “rolls” as sweet baked goods. Therefore, a restaurant, deli, or bakery that sells savory pies or rolls that contain meat, cheese and/or vegetables must charge retail sales tax on those items.

[2] Rule 244; RCW 82.08.0293: RETAIL SALES TAX EXEMPTION FOR FOOD AND FOOD INGREDIENTS - EXCEPTION FOR PREPARED FOOD – 75 PERCENT TEST – 75 PERCENT RULE. All food and food ingredients, including those otherwise not subject to sales tax, are deemed to be “sold with utensils provided by the seller” and are subject to retail sales tax, if the seller makes utensils available to its customers and the seller's gross sales of prepared food equal more than 75 percent of the seller's gross sales of all food and food ingredients. However, Rule 244(4)(c)(iii)(A) provides an exclusion from the 75 percent rule for four servings or more of food or food ingredients packaged for sale as a single item, if the seller does not customarily deliver a utensil with the package as part of the transaction.

[3] RCW 82.32A.020: RIGHTS – RELIANCE. Taxpayer’s reliance on its erroneous interpretation of statutory language recited in a Special Notice issued by the Department to the public, did not constitute reliance on specific, official written advice and written tax reporting instructions from the Department to that taxpayer. Therefore, Taxpayer did not have a basis under RCW 82.32A.020(2) for a waiver of tax, interest, or penalties.

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.

LaMarche, A.L.J. – A business that sells savory pies, sausage rolls, and sweet pastries, objects to assessment of retail sales tax on sales of those items, contending they are tax-exempt bakery items, and argues that the [Department of Revenue (Department)] improperly disallowed an exempt food tax deduction. The business further argues that it is entitled to relief because it allegedly relied to its detriment on a Special Notice issued by the Department. Taxpayer’s petition is granted in part and denied in part. We remand to Audit for possible adjustment.¹

ISSUES

1. Under RCW 82.08.0293 and WAC 458-20-244 (Rule 244), are Taxpayer’s savory pies and sausage rolls tax-exempt “bakery items,” or are they subject to retail sales tax as “prepared foods”?
2. Under RCW 82.08.0293 and Rule 244, did the Department properly disallow Taxpayer’s exempt food deduction on the basis that Taxpayer’s sales of prepared food exceeded 75 percent of its gross food sales?
3. If the Department properly assessed tax, does Taxpayer have a basis for waiver or cancellation of its tax liability under RCW 82.32A.020 . . . on the basis that it allegedly reasonably relied to its detriment on specific, official written advice and written tax reporting instructions from the Department in a Special Notice sent to Taxpayer?

FINDINGS OF FACT

[Taxpayer] has headquarters in . . . , Washington, and engaged in business activities in Washington State from January 1, 2010, through June 30, 2013, which included preparation and sales of savory pies, sausage rolls, and sweet pastries. Activities also included manufacturing and wholesale sales of packaged puff pastry. The Department assigned Taxpayer the primary NAICS code . . .² and secondary NAICS code . . .³ In dispute is the tax treatment of Taxpayer’s sales of savory pies, sausage rolls, and sweet pastries during the Audit Period.

Taxpayer’s “Australian pie,” as described and depicted on Taxpayer’s website, is shaped like a typical round pie, comprising baked dough filled with a selection of meat, vegetable, cheese, dessert, or fruit fillings, covered with crust that overhangs a short, tapering crust base. Taxpayer’s Australian pies range in size from 2-inch . . . to 5-inch . . . , and 9-inch Taxpayer sells

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

² NAICS means “North American Industrial Classification System”. The U.S. Census Bureau lists NAICS code . . . , Taxpayer’s primary classification, as “Limited-Service Restaurants” that are “primarily engaged in providing food services (except snack and nonalcoholic beverage bars) where patrons generally order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to the customer’s location,” and lists as examples: Delicatessen restaurants, Pizza delivery shops, Family restaurants, limited-service Takeout eating places, Fast-food restaurants, Takeout sandwich shops, Limited-service pizza parlors. United States Census Bureau, North American Industry Classification System, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch> (last accessed May 12, 2015) (emphasis provided).

³ The U.S. Census Bureau lists NAICS code . . . as comprising frozen cakes, pies, and other pastries manufacturing, and states, “This U.S. industry comprises establishments primarily engaged in manufacturing frozen bakery products (except bread), such as cakes, pies, and doughnuts.” *Id.* (last accessed May 12, 2015).

packages of 9-inch pies that constitute four or more servings in a single unit. Taxpayer also sells sausage rolls, which consist of savory sausage wrapped in dough and baked.

The Audit Division (Audit) of the [Department] conducted a partial audit of Taxpayer's business activities for the Audit Period. Audit's review of Taxpayer's daily z-tapes showed that sales of prepared foods during the Audit Period comprised more than 75 percent of Taxpayer's gross food sales, based largely on Audit's presumption that Taxpayer's savory [savory] pies and its sausage rolls were taxable as prepared foods. Audit found that Taxpayer had not charged retail sales tax on its sales of savory pies, sausage rolls, and sweet pastries during the Audit Period.

Taxpayer advised Audit that it had relied on the Department's Special Notice dated April 7, 2004, Sales of Bakery Items (SB 6515), in not collecting retail sales tax on its sales of savory pies and rolls. Department records show that a targeted industry education mailing was sent to Taxpayer on August 3, 2004. Prior to receipt of the Special Notice, Taxpayer collected retail sales tax on its sales of savory pies and rolls; after receiving the Special Notice, Taxpayer stopped collecting retail sales tax on those sales.

Audit issued an assessment against Taxpayer on January 30, 2014, Document . . . , in the amount of \$. . .⁴ for the Audit Period of January 1, 2010, through June 30, 2013 (Audit Period). The assessment, in part, asserted retail sales tax on sales of sweet bakery items, packages comprised of four or more servings of food sold for one price, and savory meat pies and sausage rolls. Taxpayer did not pay the assessment, and timely filed an appeal.

ANALYSIS

1. Bakery Items.

The retail sales tax is imposed on retail sales occurring in the State of Washington. RCW 82.08.020(1). A "sale" for purposes of the retail sales tax includes "the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not." RCW 82.04.040(1) (emphasis provided). A "retail sale" is "every sale of tangible personal property." RCW 82.04.050(1). Generally, the sale of food prepared by a restaurant is a sale of tangible personal property. *See Sacred Heart Medical Center v. Dep't of Revenue*, 88 Wn. App. 632, 635, 946 P.2d 409 (1997).

Sales of food and food ingredients are generally exempt from retail sales tax under RCW 82.08.0293(1).⁵ However, [the exemption does not apply to "prepared foods":]

[t]he exemption of "food and food ingredients" provided for in subsection (1) of this section shall not apply to prepared food, soft drinks, or dietary supplements

. . . .

⁴ Document . . . , totaling \$. . . , is comprised of \$. . . in retail sales tax, \$. . . interest, and a \$. . . substantial underpayment penalty.

⁵ RCW 82.12.0293 provides a corresponding use tax exemption for the consumer. For purposes of this determination, we will be discussing only the retail sales taxes.

(2)(b)(i) “Prepared food” means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

- (I) Food that is only cut, repackaged, or pasteurized by the seller; or
- (II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer

(ii) “Prepared food” does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries),⁶ as provided in the “North American industry classification system -- United States, 2002”;

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term “bakery items” includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

RCW 82.08.0293(2)(b)(ii)(A) through (C) (emphasis provided).

Taxpayer’s products comprise two or more food ingredients mixed or combined by Taxpayer for sale as single items and are taxable as “prepared food” under RCW 82.08.0293(2)(b)(i)(C), unless they can be properly excluded as exempt “bakery items” under RCW 82.08.0293(2)(b)(ii)(C).⁷ At issue here is whether the terms “pies” and “rolls” in the list of exempt “bakery items” include, respectively, Taxpayer’s savory . . . pies and sausage rolls.

When determining whether a particular item falls within the scope of “bakery items,” we first look at the plain meaning of the words used in the statute. “The ‘plain meaning’ of a statutory provision is to be discerned from the ordinary meaning of the language at issue, as well as from the context

⁶ United States Census Bureau, NAICS Industry Group 3118, Bakeries and Tortilla Manufacturing, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=3118&search=2012> (last accessed May 13, 2015). Taxpayer here has a secondary, rather than primary, NAICS code of . . . , subgroup . . . (Manufacturer of frozen cakes, pies, and other pastries). *Id.* Taxpayer’s primary NAICS code . . . corresponds with Limited Service Restaurants (see note 2).

⁷ “Bakery items” are exempt from retail sales tax only if they are “sold without eating utensils provided by the seller.” RCW 82.08.0293(2)(b)(ii). Because the parties do not raise the issue, we assume, without deciding, that Taxpayer did not provide eating utensils with the food and food ingredients it sold during the Audit Period.

of the statute in which that provision is found, related provisions, and the statutory scheme as a whole.” *State v. Jacobs*, 154 Wn.2d 596, 600, 115 P.3d 281 (2005) (quoting *Wash. Pub. Ports Ass’n v. Dep’t of Revenue*, 148 Wn. 2d 637, 645, 62 P.3d 462 (2003); *Dep’t of Ecology v. Campbell & Gwinn, LLC*, 146 Wn. 2d 1, 10-11, 43 P.3d 4 (2002)).

Here, the statute states that “the term ‘bakery items’ includes bread . . . ,” etc. RCW 82.08.0293(2)(b)(ii)(C). Although the statute provides a list of examples, the term “bakery items” is not otherwise defined in the statute. When statutory terms are not defined in the statute, we generally turn to their ordinary dictionary meaning. *Western Telepage, Inc. v. City of Tacoma*, 140 Wn. 2d 599, 609, 998 P.2d 884 (2000); see also *Palmer v. Dep’t of Revenue*, 82 Wn. App. 367, 372, 917 P.2d 1120 (1996). Here, the term “bakery” is defined as “**1** *archaic* : the work of a baker⁸ **2** : a place in which baked products (as bread, cakes, cookies) are made **3** : an establishment (as a retail shop) that sells baked items chiefly or exclusively.” Webster’s Third New International Dictionary, 164 (1993) (underlined emphasis provided). A plain reading of the term “bakery items” therefore indicates the kinds of items a bakery would make and sell, and that a typical bakery is a retail establishment that chiefly or exclusively sells baked items such as bread, cakes, and cookies. *Id.*

The statute also does not define the terms “pies” or “rolls,” but we gain a better understanding of the meanings of those terms using the rule of *noscitur a sociis*, i.e., “the meaning of words may be indicated or controlled by those with which they are associated.” *State v. Jackson*, 137 Wn.2d 712, 729, 976 P.2d 1229 (1999) (quoting *Ball v. Stokely Foods, Inc.*, 37 Wn.2d 79, 87-88, 221 P.2d 832 (1950)); *Shurgard Mini-Storage v. Dep’t of Revenue*, 40 Wn. App. 721, 727, 700 P.2d 1176 (1985); Det. No. 12-0305, 32 WTD 163 (2013). When applying this rule of construction to determine the meaning of a word in a series, “[i]t is . . . familiar policy in the construction of terms of a statute to take into consideration the meaning naturally attaching to them from the context, and to adopt the sense of the words which best harmonizes with the context.” *Jackson*, 137 Wn.2d 712, *supra*.

...

We previously determined that the term “bakery items” does not include savory baked goods that could serve as a meal. Det. No. 09-0280, 29 WTD 80 (2010). In that case, the taxpayer sold both sweet and savory baked goods and argued that its savory baked goods (in that case pockets of pastry dough filled with savory fillings called “piroshkies”) fell within the “bakery items” exception and were not subject to retail sales tax. *Id.* The taxpayer claimed that its baked goods were a type of pastry, and that the word “pastry” could be broadly defined in terms of both sweet and savory baked goods, and were therefore exempt “bakery items.” *Id.* In a plain meaning analysis of the word “pastries” (the word actually used in the statute), we discussed that the term “pastries” should not be read in isolation, but should be construed in the context of all words with which it appears in the list of “bakery items,” and within the context of the statute. *Id.*; *State v. Jacobs*, *supra*. Taxpayer here makes a similar argument, in effect urging us to construe the terms “pies” and “rolls” in isolation. However, in order for the terms “pies” and “rolls” to make sense in the context of the words with which they appear in the statute’s list of “bakery items,” and for

⁸ “Baker” is further defined as “**1** : one that bakes: as **a**: one that specializes in the baking of bread, cakes, cookies, and pastries” Webster’s Third New International Dictionary, 164 (1993) (emphasis provided).

them to make sense within the context of the statute, we must construe their meanings narrowly, i.e., as items that a typical bakery would sell and not as savory baked goods that could be meals.

Construing the statute strictly, though fairly, and in keeping with the ordinary meaning, against Taxpayer and in favor of taxation, we conclude that the term “bakery items” under RCW 82.08.0293 means items prepared and sold by a typical bakery, and does not include savory baked goods that could serve as meals, such as Taxpayer’s savory . . . pies and sausage rolls. Instead, those items are “prepared food” under RCW 82.08.0293, sales of which are subject to retail sales taxes. We conclude that Taxpayer has not met its burden of showing that it is entitled to an exemption for its sales of savory pies and rolls during the Audit Period, and, therefore, has not shown a basis upon which to grant relief. *Simpson Inv. Co., supra*.

2. [Application of the Seventy-Five Percent Test].

. . . Rule 244(4)(c)(iii) provides a “seventy-five percent test” to determine whether sales of food and food ingredients are subject to retail sales tax as “prepared foods” when utensils are merely made available to customers (as opposed to being physically provided with the product):

More than seventy-five percent prepared food sales with utensils available. All food . . . sold at an establishment . . . [is] "sold with utensils provided by the seller" if the seller makes utensils available to its customers **and** the seller's gross sales of prepared food under (a),⁹ (b),¹⁰ and (c)(ii)¹¹ of this subsection equal more than seventy-five percent of the seller's gross sales of all food and food ingredients, including prepared food, soft drinks

⁹ Rule 244(4)(a):

Heated foods. Food or food ingredients are "prepared foods" if sold in a heated state or are heated by the seller, except bakery items. "Bakery items" include bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. Food is sold in a heated state or is heated by the seller when the seller provides the food to the customer at a temperature that is higher than the air temperature of the seller's establishment. Food is not sold in a heated state or heated by the seller if the customer, rather than the seller, heats the food in a microwave provided by the seller.

¹⁰ Rule 244(4)(b):

Combined foods. Food or food ingredients are "prepared foods" if the item sold consists of two or more foods or food ingredients mixed or combined by the seller for sale as a single item, unless the food or food ingredients are any of the following:

- Bakery items (defined in (a) of this subsection);
- Items that the seller only cuts, repackages, or pasteurizes;
- Items that contain eggs, fish, meat, or poultry, in a raw or undercooked state requiring cooking as recommended by the federal Food and Drug Administration in chapter 3, part 401.11 of *The Food Code*, published by the Food and Drug Administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness; or
- Items sold in an unheated state as a single item at a price that varies based on weight or volume.

¹¹ Rule 244(4)(c)(ii):

Utensils are necessary to receive the food. Individual food or food ingredient items are "sold with utensils provided by the seller" if a plate, glass, cup, or bowl is necessary to receive the food or food ingredient and the seller makes those utensils available to its customers. For example, items obtained from a self-serve salad bar are sold with utensils provided by the seller, because the customer must use a bowl or plate provided by the seller in order to receive the items.

Thus, in accordance with Rule 244(4)(c)(iii), when a seller makes utensils available to customers, and when those foods that are either heated, combined, or require a utensil constitute more than 75% of a seller's sales, then 100% of the seller's food items will be retail sales taxable just as if they were "sold with utensils provided by the seller."

However, Rule 244(4)(c)(iii)(A) provides an exception for sales of four servings packaged and sold as a single item, which is available where the seller has more than 75% prepared food sales:

(A) Exception for four or more servings. *Even if a seller has more than seventy-five percent prepared food sales, four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price are not "sold with utensils provided by the seller" unless the seller's customary practice for the package is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction. Whenever available, the number of servings included in a package of food or food ingredients is to be determined based on the manufacturer's product label. If no label is available, the seller must reasonably determine the number of servings.*

....

Rule 244(4)(c)(iii) (emphasis provided). The exempt food deduction applies to food sales only if sales of prepared foods are less than 75 percent of gross food sales, and sales receipts segregate taxable (prepared) and nontaxable (non-prepared) food sales. *Id.* If a retailer's sales of prepared foods exceed 75 percent of gross food sales, all sales of food and food ingredients are taxable; this is known as the 75-percent rule. *Id.* (Emphasis provided.)

Here, Taxpayer objects to retail sales tax imposed on its sweet bakery items, which Audit found to be 12 percent of Taxpayer's receipts during the Audit Period.¹² As we previously concluded, savory baked items like Taxpayer's savory pies and sausage rolls are not excluded "bakery items" under RCW 82.08.0293(2)(b)(ii)(A), and, therefore, are subject to retail sales tax as "prepared food" under RCW 82.08.0293(2)(b)(i). Because total gross sales of "prepared food" included the [savory] pies and sausage rolls, Taxpayer's sales of "prepared food" exceeded 75 percent, the threshold under which it could claim the exempt food deduction under Rule 244. Following the 75-percent rule of Rule 244, if a seller exceeds the 75 percent threshold, then *all* . . . [the] food it sells is deemed to have been "sold with utensils provided by the seller". Because Taxpayer's sweet baked items . . . are considered under Rule 244 to have been "sold with utensils provided by the seller," they do not fall under the "prepared food" exception under RCW 82.08.0293. Accordingly, we conclude that the Department did not err when it imposed retail sales tax on all of Taxpayer's gross sales of . . . food inclusive of its sweet baked goods.

However, Taxpayer also disputes the retail sales tax imposed on Taxpayer's 9-inch "family pies," which constitute four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price, and which comprise approximately five percent of Taxpayer's gross receipts for the Audit Period. We agree with Taxpayer. Because Taxpayer's sales of prepared food exceeded 75 percent of its gross sales, Taxpayer was entitled to a deduction for sales

¹² The parties do not dispute that Taxpayer's establishment made utensils available to its customers, so we assume without deciding that Taxpayer did in fact make utensils available.

of items comprising four servings packaged and sold as a single item. 244(4)(c)(iii)(A). Audit indicates that Taxpayer did indeed make such sales, and in its response to Taxpayer's petition, concedes that an adjustment is warranted to the extent Taxpayer can document those sales. For the foregoing reasons, we remand this case to Audit for possible adjustments to the assessment.

3. Waiver or Cancellation of Tax Liability.

Taxpayers are entitled to waiver or cancellation of taxes in only very narrow circumstances. In Washington State, Taxpayers have the duty to know of their responsibilities under the law. RCW 82.32A.030 states:

To ensure consistent application of the revenue laws, taxpayers have certain responsibilities under chapter 82.32 RCW, including, but not limited to, the responsibility to: . . .

(2) Know their tax reporting obligations, and when they are uncertain about their obligations, seek instructions from the department of revenue; . . .

(5) Ensure the accuracy of the information entered on their tax returns; . . .

Id. (emphasis provided). The voluntary nature of the tax system the Department administers is codified in RCW 82.32A.005, which reads, in part, as follows:

. . . [T]he Washington tax system is largely based on voluntary compliance and that taxpayers have a responsibility to inform themselves about applicable laws . . . [T]he rights of the taxpayers and their attendant responsibilities are best implemented where the department of revenue provides accurate tax information, instructions, forms, administrative policies, and procedures to assist the taxpayers to voluntarily comply with the provisions of the revenue act, Title 82 RCW, and where the taxpayers cooperate in the administration of these provisions.

RCW 82.32A.005 (emphasis added). A taxpayer has a corresponding right to “rely on specific, official written advice and written tax reporting instructions from the department of revenue to that taxpayer, and to have interest, penalties, and in some instances, tax deficiency assessments waived where the taxpayer has so relied to their proven detriment; . . .” RCW 82.32A.020(2).

Here, Taxpayer received a Special Notice when the Department sent out a general notice to taxpayers. The Special Notice stated as follows:

Retroactive to January 1, 2004, the sales tax exemption for food products has been amended. The changes clarify and expand the exemption for bakery products. Under the new law, bakery items are exempt from retail sales tax *unless the item is sold with eating utensils provided by the seller (see below)*.

The quantity of goods sold, the fact that the goods may be sold “hot from the oven,” and the fact that seating facilities may be available have no bearing on the exemption.

However, the charge for the nontaxable bakery items must be properly segregated from the charge for any taxable items, such as a cup of coffee. Otherwise, the entire un-segregated charge is subject to sales tax.

Definitions

“**Bakery items**” includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

...

[M]erely making utensils available for the customer to take at the customer’s discretion does not constitute “sold with eating utensils.” For example, bakery items are not “sold with eating utensils” when the seller has merely placed a napkin dispenser on the counter or has set up a utensil “island” for customers in the store. . . .

(Underlined emphasis provided.)

Here, Taxpayer interpreted the language of the statute set out in the Special Notice to mean that sales of savory pies and sausage rolls were no longer subject to retail sales tax, based on the fact that the statutory term “bakery items” contained the words “pies” and “rolls.” Based on its own interpretation of the term “bakery items,” Taxpayer made significant changes to its collection of retail sales tax, going so far as to change its accounting system and retrain its employees, without first verifying that its interpretation of the law was correct. The Special Notice did not provide specific advice and instructions directed to this Taxpayer, but instead was a general notice sent to many taxpayers to highlight newly adopted changes in legislation. The language that Taxpayer relied upon, the definition of “bakery items,” was simply a recital of the language of the new statutory provision itself, and was not advice from the Department. Moreover, the Department issued 29 WTD 80 in December 2010, the first year of the Audit Period, which set forth the Department’s position on the taxation of savory baked goods, which was contrary to Taxpayer’s own interpretation. Because Taxpayer has not shown that it relied . . . on “specific, official written advice and written tax reporting instructions from the department” to Taxpayer, we do not have grounds under RCW 82.32A.020(2) upon which to grant relief.

...

In summary, although we recognize Taxpayer’s history of compliance with state tax laws, Taxpayer has not shown that it is entitled to an exemption on its sales of its savory pies and sausage rolls during the Audit Period. Further, Taxpayer has not shown a basis for relief under RCW 82.32A.020(2) However, Taxpayer was entitled to a deduction for sales of items comprising four servings packaged and sold as a single item, pursuant to Rule 244(4)(c)(iii)(A).

DECISION AND DISPOSITION

Taxpayer's petition is granted in part and denied in part.

Dated this 27th day of July, 2015.