

Cite as 3 WTD 149 (1987)

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

In the Matter of the Petition)	<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>
For Refund of)	
)	No. 87-170
)	
. . .)	Registration No. . . .
)	
)	

RULE 237, RCW 82.08.050 AND RCW 82.14.050: RETAIL SALES TAX -- LOCAL SALES TAX -- SELLER'S LIABILITY -- FAILURE TO COLLECT. Seller who fails to collect state sales tax is personally liable for the amount of the tax, and, since administrative provisions of chapter 82.08 RCW are specifically made applicable to chapter 82.14 RCW, seller who fails to collect local sales tax is personally liable for that tax as well.

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:

Out-of-state seller petitions for refund of local sales taxes on ground that seller was not aware of the tax and therefore failed to collect the tax from Washington purchasers.

FACTS:

Rosenbloom, A.L.J. -- A partial audit of the taxpayer's file disclosed that the taxpayer had remitted retail sales tax on retail sales at the rate of .065, but that the taxpayer had failed to remit local city and/or county sales tax. A tax assessment was issued for the resulting deficiency. The taxpayer paid the assessment and petitioned for refund.

TAXPAYER'S EXCEPTIONS:

The taxpayer was not advised by the Department that it should collect more than the .065 state sales tax on retail sales. As an out-of-state business, the taxpayer was not familiar with Washington's tax law. Therefore, the taxpayer failed to collect local sales tax. For these reasons, the taxpayer petitions for a refund of local taxes paid in response to the assessment.

DISCUSSION:

Local sales and use taxes are imposed under the authority of RCW 82.14.030(1), which provides in part:

The governing body of any county or city while not required by legislative mandate to do so, may, by resolution or ordinance for the purposes authorized by this chapter, fix and impose a sales and use tax in accordance with the terms of this chapter. Such tax shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 [sales tax] and 82.12 [use tax] RCW, upon the occurrence of any taxable event within the county or city as the case may be. (Bracketed inclusions ours.)

RCW 82.14.070 provides in part:

It is the intent of this chapter that any local sales and use tax adopted pursuant to this chapter be as consistent and uniform as possible with the state sales and use tax and with other local sales and use taxes adopted pursuant to this chapter. It is further the intent of this chapter that the local sales and use tax shall be imposed upon an individual taxable event simultaneously with the imposition of the state sales or use tax upon the same taxable event. The rule making powers of the state department of revenue contained in RCW 82.08.060 and 82.32.300 shall be applicable to this chapter.

RCW 82.14.050, which pertains to the administration and collection of local sales and use taxes provides in part:

All administrative provisions in chapters 82.03, 82.08, 82.12. and 82.32 RCW, as they now exist or

may hereafter be amended, shall, insofar as they are applicable to state sales and use taxes, be applicable to taxes imposed pursuant to this chapter.

RCW 82.08.050 provides in part:

The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department pursuant to the provisions of RCW 82.08.060.

. . . .

In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of his own acts or the result of acts or conditions beyond his control, he shall, nevertheless, be personally liable to the state for the amount of the tax.

Under the authority of RCW 82.08.060 and 82.32.300, the Department has published schedules to govern the collection of retail sales tax. See WAC 458-20-237. The schedules combine state and local taxes.

[1] Thus, any applicable local retail sales tax must be collected along with the state retail sales tax on each retail sale. RCW 82.14.030(1) and 82.14.070. If the seller fails to collect the state retail sales tax, for any reason, the seller is nevertheless personally liable for payment of the tax. RCW 82.08.050. Because the administrative provisions of chapter 82.08 RCW are applicable to local retail sales tax, RCW 82.14.050, a seller who fails to collect local retail sales tax, for any reason, is likewise personally liable for payment of the tax.

We conclude that the taxpayer is personally liable for payment of the local retail sales taxes that it failed to collect.

The taxpayer's unfamiliarity with Washington tax law does not excuse payment. Nor does the Department have any obligation to advise the taxpayer specifically of its tax obligations as a prerequisite to collection. The Department expends considerable effort in disseminating useful information so

that taxpayers may correctly determine their tax liability. The Department's Taxpayer Information and Education Section routinely responds to written requests for information. Taxpayers may also telephone (206) 753-5525, or call toll-free 1-800-647-7706 (from in-state) or 1-800-233-6349 (from out of state). Ultimately, however, responsibility for correctly determining tax liability rests with the person engaging in business.

DECISION AND DISPOSITION:

The taxpayer's petition for refund is denied.

DATED this 20th day of May 1987.