

BEFORE THE DIRECTOR
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition)	<u>F</u> <u>I</u> <u>N</u> <u>A</u> <u>L</u>
For Correction of Assessment and))	<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>
Refund of)	No. 88-266
)	
)	
. . .)	Registration No. . . .
)	Tax Assessment No. . . .
)	
)	
and)	
)	
. . .)	Registration No. . . .
)	Tax Assessment No. . . .

[1] **RULE 109 AND RCW 82.04.4281:** B&O TAX -- DEDUCTION -- INTEREST -- MONEY MANAGEMENT -- BRIGHT LINE TEST -- OBJECTIVE STANDARDS. The bright line test criteria to determine if a claimed money management system through which a parent company funds the operation of its subsidiary companies constitutes the mere "use of money as such" entitled to b&o tax deduction under RCW 82.04.4281 are fourfold:

- 1) Company funds are moved back and forth between entities or accounts within the internal business structure on a daily basis;
- 2) The subsidiary or affiliated entities whose daily operations are funded in this manner are majority owned and controlled by the same parent or its owners;
- 3) There are no written evidences of indebtedness memorializing the funding activity and purporting to create any creditor-debtor relationship between the parties, on either a demand or term payment basis;
- 4) The functions performed to accomplish the money movement between entities or accounts are the same as those performed by banks and

other financial institutions, utilizing a daily targeted minimum or zero account balance method.

Accord: Final Determination 86-309A, 4 WTD 341 (1987); Final Determination 88-246, ____ WTD ____ (1988).

[2] **RCW 82.04.4281:** B&O TAX -- DEDUCTION -- INTEREST INCOME -
- MONEY MANAGEMENT -- EVIDENCES OF INDEBTEDNESS -- GRID
NOTES. The third prong of the test to determine if a
parent company's funding of its subsidiary company's
daily operations constitutes a tax deductible "money
management system" requires that there be no written
evidence of indebtedness between the parties. Term
obligations requiring periodic repayment of principal and
interest are outright loans and are not qualified for tax
exemption as "money management."

Accord: Final Determination 88-246, ____ WTD ____ (1988).

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: . . .

DEPARTMENT REPRESENTED BY:

Garry G. Fujita, Assistant Director
Edward L. Faker, Sr. Administrative Law Judge

DATE OF HEARINGS: June 18, 1987 and March 9, 1988

NATURE OF ACTION:

Appeal from tax assessments asserting B&O tax under the Service
classification upon interest income from financing the daily
operations of subsidiary companies and seeking refund of such taxes
paid.

FACTS AND ISSUES:

Faker, Sr. A.L.J. -- The taxpayer's business records were audited
for the periods from May 1, 1982 through June 30, 1985 (. . . ,
Inc.) and from July 1, 1981 through June 30, 1985 (. . . , Inc.)
respectively. Tax Assessment Nos. . . . and . . . respectively
were issued together on April 22, 1986. The taxpayers timely
appealed from portions of these assessments relating exclusively to
Service business tax assessed upon interest income derived from
daily funding of subsidiary companies. The hearing was joined with
other taxpayers, similarly situated, for argument of the single,
common issue, by agreement of all parties. The matter was
entertained for hearing by the Director of the Department through

his designees, as a matter of first impression, under the provisions of WAC 458-20-100.

Hearings were conducted by the Director's designees on June 18, 1987 and March 9, 1988. During the interim the taxpayers submitted several supplemental memoranda of authorities, including factual classifications of the business undertakings which generated the interest income in issue. The operative facts regarding the activities of the two taxpayers before us here are succinctly stated in the last of the memoranda submitted on March 18, 1988. It is attached to this Final Determination as Exhibit A. We have confirmed the validity of these factual representations and hereby incorporate them herein, for reference at this point.

There is a single issue for our consideration. Is interest income derived from money management systems through which the daily business operations of subsidiary companies are funded entitled to the B&O tax exemption of RCW 82.04.4281, as being amounts derived from the "use of money as such?"

We find that the exemption is applicable and remand the assessments to the Audit Section for adjustment and the processing of tax refunds or credits as appropriate.

TAXPAYERS' EXCEPTIONS:

The taxpayers various arguments are orderly presented in Exhibit A and are presented in greater detail in the Taxpayer's Exceptions portion of Final Determination No. 88-246, issued on June 29, 1988 on behalf of a co-petitioner in this joint appeals case. Repetition is not useful or desired here.

DISCUSSION:

[1] Our review of the taxpayer's files and records reveals that the money management systems employed by the taxpayers meet the criteria for tax exemption under RCW 82.04.4281 and expressly set forth in Det. No. 88-246 at 14, ___ WTD ___ (1988),¹ Of significant importance is our finding that the money management systems utilized by the taxpayers here do not entail any written evidences of indebtedness memorializing the daily funding activity and purporting to create any enforceable creditor-debtor relationship between the taxpayers and their funded subsidiaries.

[2] Term obligations requiring periodic repayments of principal amounts loaned, with interest, from subsidiary company borrowers are not within the scope of this ruling and do not qualify for the

¹ Also see Final Det. No. 86-309A, 4 WTD 341 (1987), for thorough treatment of the Department's position, with cited authorities, regarding money management systems of the kind at issue here.

interest exemption. Again, see Final Det. No. 88-246 at 15, ____ WTD ____ (1988) and Final Det. No. 86-309A, 4 WTD 341 (1987). These precedential rulings represent the Department's final position on this issue and they are controlling in this case.

DECISION AND DISPOSITION:

The taxpayers' petitions are sustained. After adjustments to the assessments and the issuance of credits as appropriate under the guidelines contained herein, the taxpayers will be advised in writing of any balances due.

DATED this 8th day of July 1988.