

Cite as 10 WTD 356 (1990).

APPEALS DIVISION

BEFORE THE INTERPRETATION AND
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 Correction of Assessment)	
of)	No. 90-404
)	
. . .)	Registration No. . . .
)	. . . /Audit No. . . .
)	
)	

[1] RULE 172: SALES TAX -- USE TAX -- JANITORIAL SERVICES -- CLEANING AGENTS. Cleaning agents consumed in the course of cleaning buildings or structures are not resold to the customer. The provider of the cleaning service owes sales or use tax on the cleaning agents.

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:

Protest of sales/use taxation on cleaning agents.

FACTS AND ISSUES:

Dressel, A.L.J. -- [The taxpayer] conducts a janitorial and fire/water damage restoration business. Her books and records were examined by the Department of Revenue (Department) for the period . . . , 1986 through . . . , 1989. As a result, a tax assessment, identified by the above-captioned numbers, was issued for \$ The taxpayer appeals a portion of the assessment.

In her work, the taxpayer uses cleaning chemicals (agents). In her petition for correction of assessment, she objects to

the use taxation of these cleaning agents in those situations where she also charges sales tax to her customers. She gives, as an example, a job where she is hired to restore a carpet after fire or water damage. She charges the customer \$100 for her service plus \$8 for sales tax. The \$100 fee is intended to cover the cost of the necessary cleaning agents as well as the required labor. The taxpayer reasons, then, that sales tax is collected and paid on the cleaning agents. In the tax audit at issue, the Department's auditor has also imposed, against the taxpayer, use tax on the cleaning agents.

The taxpayer sees this as double taxation and suggests that this was not the intent of the "regulation". She analogizes her situation with a contractor who purchases nails to build a house or a contractor who purchases paint to paint a house. She asks, rhetorically, if these contractors are required to charge their customers sales tax on the entire job and also pay sales/use tax on the cost of the nails and paint.

Whether use tax should be charged on cleaning agents used by a person who cleans fire or watered damaged real property is the issue in this case.

DISCUSSION:

[1] WAC 458-20-172 (Rule 172) is on point. It details the manner in which state excise taxation applies to those persons who have contracts to clean existing buildings or structures as well as those who perform janitorial services. Those who perform janitorial services are taxable under the Service and Other Business Activities B&O category. Janitorial services include the cleaning of rugs in place except when such cleaning is made necessary by fire, floods, and certain other perils. In that case the income from such cleaning activity, when done for consumers, is subject to Retailing B&O and retail sales tax on the contract price.

For the purpose of resolving the issue presented in this case, however, whether the cleaning activity qualifies as janitorial services is immaterial. This is because of the following excerpt from Rule 172:

The retail sales tax applies upon the sales to such contractors of equipment and supplies used or consumed in the performance of such contracts and which are not resold as a component part of the work.

USE TAX

The use tax applies to the use by such contractors of equipment and supplies upon which the retail sales tax has not been paid.

The cleaning agents or chemicals used on the rugs are *used or consumed* in the performing of these cleaning contracts. They are not resold as a component part. There is no component part in this situation because the cleaning of the rug is a service activity as opposed to the sale of tangible personal property. This is how the taxpayer's situation differs from that of the contractor who applies paint to a house or pounds nails into boards to construct one. The paint and the nails are tangible personal property resold to the contractor's customer as a component part of the house. The cleaning agents, on the other hand, are entirely used up or consumed by the taxpayer in the cleaning process. Thus, according to the above authority, they are subject to sales tax or use tax.

DECISION AND DISPOSITION:

The taxpayer's petition is denied.

DATED this 20th day of December 1990.