

Cite as 10 WTD 33

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

In the Matter of the Petition	)	<u>D E T E R M I N A T I O N</u>
For Correction of Assessment of	)	
	)	No. 90-245
	)	
. . .	)	Registration No. . . .
	)	. . ./Audit No. . . .
	)	

**[1] RCW 82.04.4289 and RULE 168:** B&O TAX -- DEDUCTION -- HOSPITAL SERVICES -- CLINICS AND DEPARTMENTS. That portion of a nonprofit hospital's income from radiology services is deductible from its B&O tax when the department is staffed, equipped, and administered by the hospital notwithstanding the fact that part of the department is housed in an adjacent building and serves outpatients referred by doctors practicing in the building. ACCORD: Group Health Co-op v. Tax Commission, 72 Wn.2d 422 (1967); Det. No. 87-876, 4 WTD 399 (1987); Swedish Hospital Medical Center v. Department of Rev., Superior Court Docket No. 87-2-2492-7.

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: . . .

DATE OF TELEPHONE CONFERENCE: . . .

NATURE OF ACTION:

Taxpayer petitions for correction of assessment of B&O tax on income received for radiology services on the grounds that the services are rendered by a department of the nonprofit, B&O tax-exempt hospital. Taxpayer initially also appealed assessment of B&O tax on income received from home health care but has conceded its taxability and paid the assessed tax.

FACTS AND ISSUES:

Adler, A.L.J. -- Taxpayer is engaged in business as a nonprofit hospital.

In 1981, taxpayer began to outgrow the hospital building. It moved a portion of its radiology equipment to a room on the main floor of an adjacent building. A foundation of the hospital owns the building, which is connected by a tunnel and a covered walkway.

The radiology equipment moved consisted mostly of older equipment. Taxpayer states it is used to perform basic x-rays. The hospital alone performs "invasive" procedures, such as nuclear medicine; and the adjacent room alone performs mammograms. Basic x-ray procedures are offered in both locations.

Taxpayer contends the portion of its radiology department housed in the adjacent building is an "integral, interrelated, and essential part" of the hospital under Group Health Co-op, supra. As indicia of this "integral and interrelated" character, taxpayer described the following attributes of the facility:

1. The adjacent building is exempt from property tax.
2. The space is included in periodic reviews conducted by the hospital's accreditation body ( . . . ).
3. The hospital pays rent to the building's lessor for use of the space.
4. The hospital budget for its radiology services is one amount, which funds both spaces.
5. The staff for both areas is employed by the hospital and is under the supervision of one person.
6. All equipment is owned by the hospital.
7. It is used interchangeably with the hospital facility. In effect, where basic x-ray capabilities are duplicated, patients are referred to whichever area can serve the patient at the time of the referral. Where specific services are needed, the patient is referred to the area performing the service.
8. If radiology patients were not being served in this area, they would receive these services in the hospital building.
9. All results are read by radiologists housed on the hospital premises.
10. All records are kept in the hospital and considered property of the hospital.

11. All billing for radiology services is done by the hospital with no separation on the bill, no difference in accounting codes, and no difference in price based on the location in which the service is performed.

Taxpayer alternatively contends that approximately one-half of the revenues received for these services are paid by Medicare and Medicaid. If the income is deemed subject to B&O tax, then any funds received from Medicare, Medicaid or any other state or federal agency would be deductible under RCW 82.04.4297.

#### DISCUSSION:

[1] RCW 82.04.4289 permits a deduction from B&O tax for services rendered to patients by nonprofit hospitals enjoying a property tax exemption.

In Group Health Co-op v. Tax Commission, 72 Wn.2d 422 (1967), the State Supreme Court considered Group Health's method of operation and found that, under its factual circumstances, Group Health's central clinic was an "integral, interrelated and essential" part of the hospital, rather than an independent clinic rendering services found in any doctor's office.

The court compared the facts present in that case to attributes of a clinic and those of a hospital in finding that the central clinic at issue possessed more attributes of a hospital than of a clinic. The court did not prescribe a test based on the use of fixed characteristics to be used in determining the nature of all medical facilities. Instead, it stated

Within the framework of this aspect of [Group Health's] service, the central clinic truly forms an integral, interrelated and essential part of the central facility, for, although it undertakes to provide some out-patient services akin to the outlying clinical service, it nevertheless provides the round-the-clock intake and emergency services which form a constituent of the normal hospital operation. . . . In addition to the foregoing, although we do not consider it decisive in this case, is the fact that the central clinic, as part of the central facility, enjoys [a property] tax exempt status. (Emphasis and brackets supplied.)

In cases and determinations decided since Group Health, the basis of the decisions has been a factual determination of the operation at issue and a comparison with general characteristics of clinics and of hospitals to find which type of operation the contested one most resembles. Swedish Hospital Medical Center v. Department of Rev., Thurston County Superior Court Docket No. 87-2-2492-7 (1988); Det. No. 87-376, 4 WTD 399 (1987).

In this case, we are persuaded income from this portion of taxpayer's radiology department is deductible because taxpayer has shown that it meets the criteria of "integral, interrelated and essential part" of the hospital under a Group Health analysis. It has shown that the use of a second room for radiology was due to a business decision caused by outgrowing the hospital building. Additionally, taxpayer has demonstrated that the second room is part of the hospital's radiology department, rather than a separate clinic operated by the hospital in competition with private clinics or doctors' offices, notwithstanding the fact that some or all of the services may be available in such clinics.

DECISION AND DISPOSITION:

Taxpayer's petition is granted with regard to the income received from its radiology services performed in the adjacent building.

DATED this 18th day of June, 1990.