

Cite as Det. No. 15-0256, 35 WTD 494 (2016)

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. 15-0256
	)	
. . .	)	Registration No. . . .
	)	

RCW 82.49.040: WATERCRAFT EXCISE TAX – VALUATION – MOST RECENT PURCHASE PRICE KNOWN: When the most recent purchase price is known by the owner and not disputed by the Department, the purchase price adjusted according to the Department’s depreciation schedule is used to determine the fair market value of the vessel.

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.

Sattelberg, A.L.J. – A yacht owner (“Taxpayer”) protests the Department of Revenue’s (“Department”) assessment of watercraft excise tax (“WET”) on its yacht (“the Vessel”) arguing that the value the Department used in assessing WET was overstated. We deny the petition.<sup>1</sup>

### ISSUES

Did the Department properly value the Vessel for WET purposes under RCW 82.49.010(1)?

### FINDINGS OF FACT

Taxpayer initially filed as a limited liability company [(LLC)] in Washington as of December 5, 2006. In August 2008, Taxpayer purchased the Vessel, . . . , from a third party [out-of-state].<sup>2</sup> Taxpayer then registered as a [LLC] [out-of-state] as of April 14, 2009, and placed the Vessel in that entity. Taxpayer brought the Vessel into Washington later in 2009 and had some repairs performed on it. Although the Vessel has been continuously moored in Washington since first entering this state, Taxpayer did not pay use tax or WET on it.

On March 28, 2014, the Department’s Compliance Division (“Compliance”) sent Taxpayer a use tax inquiry letter regarding the Vessel, to which there was no response. On October 15, 2014, a Compliance agent sighted the Vessel moored at . . . , Washington. On October 31, 2014,

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

<sup>2</sup> [Vessel] is a 2004, 50.5 foot sport fisherman style vessel, USCG # . . . , HIN . . . .

Compliance set a second use tax inquiry letter, and then a third on December 8, 2014. Taxpayer did not respond to these letters.

On December 31, 2014, Compliance issued a use tax assessment against the Vessel totaling \$ . . . .<sup>3</sup> The use tax assessment used a vessel fair market value of \$ . . . .<sup>4</sup> On January 22, 2015, Compliance issued a WET assessment against the Vessel totaling \$ . . . , using the same fair market value multiplied by the Department's WET depreciation schedules.<sup>5</sup>

On March 27, 2015, Taxpayer provided documentation showing that the Vessel was in Washington for repair work in 2009.<sup>6</sup> Taxpayer also stated to Compliance that it had purchased the Vessel [out-of-state] in August 2008 for \$ . . . . Based on the documentation and Taxpayer's representations, on April 8, 2015, Compliance cancelled the use tax assessment because the Vessel's first use in Washington was beyond the [statutory non-claim period].<sup>7</sup> Compliance also amended the WET assessment using the lower fair market value of \$ . . . for calculating depreciation, resulting in a new total assessment of \$ . . . .<sup>8</sup>

Taxpayer timely appealed the amended WET assessment contending that the value the Department used for WET was incorrect. Taxpayer also initially argued that WET was not due, but dropped this argument at the appeal hearing.

#### ANALYSIS

WET is imposed on the privilege of using a vessel upon the waters of Washington.<sup>9</sup> RCW 82.49.010(1). WET is an annual tax imposed for a twelve-month period, including the month in which the vessel is registered. RCW 82.49.010(3). The amount of WET is 0.5% of the fair market value of the vessel. RCW 82.49.010(1); RCW 82.49.040. "The fair market value of vessel for the purposes of this chapter shall be based on the most recent purchase price, depreciated according to the year of the most recent purchase of the vessel." RCW 82.49.040. The most recent purchase price is the consideration, whether money, credit, rights, or other property expressed in terms of money, paid or given or contracted to be paid or given by the purchaser to the seller for the vessel. *Id.*

Compliance based the fair market value of the Vessel on the Taxpayer's representation that its 2008 purchase price was \$ . . . , and depreciated it in accordance with RCW 82.49.040.

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<sup>3</sup> The assessment consisted of \$ . . . in use tax, . . . in delinquent penalties, \$ . . . in interest, and a \$ . . . substantial underpayment penalty.

<sup>4</sup> Compliance used Boat Values, Price Guides, Yachts for Sale & Charter to determine the fair market value of the Vessel at the time of first use in Washington.

<sup>5</sup> The assessment consisted of \$ . . . in WET, \$ . . . in delinquent penalties, \$ . . . in interest, and a \$ . . . substantial underpayment penalty. Under RCW 82.49.040, the Department prepares an annual depreciation schedule for use in determining fair market value for Chapter 82.49 RCW.

<sup>6</sup> Taxpayer provided repair work invoices and date stamped pictures.

<sup>7</sup> See [RCW 82.12.010(6)(a) (defining "use" as "first act within this state" falling within listed activities);] RCW 82.32.050(4).

<sup>8</sup> The assessment consisted of \$ . . . in WET, \$ . . . in delinquent penalties, . . . in interest, and a \$ . . . substantial underpayment penalty.

<sup>9</sup> [Some] vessels [are] exempt [from WET] under RCW 82.49.020, [but] it is agreed that none of these exemptions apply here.

Taxpayer contends the Vessel was worth less than the Department's depreciation schedule calculation because it had repairs made on the Vessel after its initial purchase. However, if the most recent purchase price is known by the owner and not disputed by the Department, the purchase price adjusted according to the Department's depreciation schedule is used to determine the fair market value of the vessel. RCW 82.49.040.<sup>10</sup> Chapter 82.49 RCW does not provide for an alternative measure where a taxpayer asserts the depreciation schedule does not reflect the actual fair market value of the Vessel. Therefore, we conclude that Compliance properly measured and assessed WET on the vessel.

#### DECISION AND DISPOSITION

Taxpayer's petition is denied.

Dated this 23rd day of September, 2015.

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<sup>10</sup> [This is not a case where Compliance believed the purchase price was not a reasonable representation of the true market value of the vessel at the time of purchase. Thus, the Department had no need to appraise the vessel itself. See RCW 82.45.050(2)].