

Cite as 3 WTD 135 (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 Correction of Assessment)	
)	No. 87-157
)	
)	Registration No. . . .
. . . )	Tax Assessment No. . . .
)	
)	

[1] **RULES 138, 173 & 224:** SERVICE -- RETAIL SALE -- PIANO TUNING.

Piano tuning is not a retail sale. Any alteration or improvement to tangible personal property is minor. The primary nature of the activity is service.

TAXPAYER REPRESENTED BY: . . .

DATE OF HEARING: November 20, 1986

NATURE OF ACTION:

The taxpayer has petitioned for a correction of a tax assessment issued after an office audit.

FACTS AND ISSUES:

Potegal, A.L.J. -- The taxpayer is in the business of tuning pianos. He started operating the business on March 1, 1984. From that date until October 30, 1984 he collected sales tax from his customers. On October 30, 1984 he was advised by an employee of the Department of Revenue to stop collecting sales tax. He did so until June 25, 1986. On that date another Department employee told him that he should have been collecting tax all along. That employee conducted an office audit and issued a tax assessment for sales tax the taxpayer should have but didn't collect from his customers. Since then, the taxpayer has once again been collecting sales tax.

In view of the fact that he was following the advice of the Department in not collecting tax, the taxpayer believes it is unfair to now demand payment of that tax from him.

#### DISCUSSION:

The question of the taxability of piano tuning is a close one. On one hand it could be considered a retail sale subject to sales tax on the grounds that it is a service relating to "altering . . . or improving . . . tangible personal property of or for consumers." RCW 82.04.050. On the other hand, it could be considered a service not subject to sales tax because it involves the application of a high degree of skill, knowledge, and experience. Any alteration or improvement to the piano is relatively minor.

We think the better approach is to treat piano tuning as a service not subject to sales tax. In fact, as can be seen by the attached letter (written after the assessment was issued to the taxpayer), the Department has publicly taken this position.

Because piano tuning is not subject to sales tax, the tax assessment will be cancelled. The taxpayer should immediately cease collecting sales tax from his customers on charges for piano tuning. The letter contains advice on the taxability of other activities often performed by piano tuners. The taxpayer is directed to follow that advice.

#### DECISION:

The taxpayer's petition is granted. Tax Assessment No. . . . is cancelled.

DATED this 14th day of May 1987.