

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 Determination of Tax)	
Liability)	No. 90-284
)	
. . .)	Unregistered
)	
)	
)	

. . . the privilege of using within this state as a consumer any article of tangible personal property....

Therefore, if a consumer uses tangible personal property within this state, that person is subject to use tax unless some exemption applies.

The only exemption which may apply based on the limited information available is RCW 82.12.0251 which provides an exemption:

. . . in respect to the use of household goods, personal effects, and private automobiles by a bona fide resident of Washington or nonresident members of the armed forces who are stationed in Washington pursuant to military orders, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than ninety days prior to the time he or she entered Washington.

The issue is whether a fifth wheel trailer qualifies as a private automobile subject to the exemption. ETB 415.12.178 (. . .) states the long standing definition of the Department of Revenue regarding that exemption statute and its predecessor, RCW 82.12.030(1):

The term "private automobiles" will include any motor propelled four wheel vehicle regularly and continuously used by an individual for personal and family transportation.

A fifth wheel trailer is not a private automobile for the purpose of the exemption under RCW 82.12.0251 because it is not motor propelled. It is a well-established rule that exemptions to the tax laws are to be construed narrowly. "Taxation is the rule and exemption is the exception." O'Leary v. Department of Revenue, 105 Wn.2d 679 (1986), Budget Rent-A-Car of Washington-Oregon, Inc. v. Department of Revenue, 81 Wn.2d 171 (1972).

RCW 82.12.0251 provides for exemption, and thus its terms must be narrowly construed in favor of taxation. This requires that the term "private automobile" in RCW 82.12.0251 not be expanded in interpretation to include fifth wheel trailers, since such interpretation would broaden the exemption.

DECISION AND DISPOSITION:

The taxpayer's petition for relief of tax liability is denied.

DATED this 19th day of July, 1990.