

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

In the Matter of the Petition )  
For Ruling on Tax Liability of)

D E T E R M I N A T I O N

No. 88-306

. . . )

Registration No. . . . )

[1] **RULE 173:** RETAIL SALE -- REPAIR TO PERSONAL PROPERTY FOR CONSUMERS. Repair to tangible personal property for a consumer is taxable as a retail sale. Even though the repairs are performed by the owner of the property, they are done for the lessee, or consumer, of the property. 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.

NATURE OF ACTION:

Taxpayer requests a ruling on the tax consequences of repairs to tangible personal property made by lessor.

FACTS AND ISSUES:

Hesselholt, A.L.J. -- Taxpayer requests a written ruling of tax liability in the following transaction. All parties are in Washington. Taxpayer is an adjustment representative for the insurance company.

On October 5, 1987, Lessee leased a crane from Lessor. Under the agreement, Lessor was to be added as an additional named insured on Lessee's policies providing indemnity protection to equipment owned or operated by Lessee.

On October 6, 1987, the crane was damaged. It was returned to Lessor for repairs. The cost of repairs totaled \$ . . . .

Taxpayer believes that since Lessor performed repairs to its own equipment, and since Lessor is an insured under the policy, the repairs should not be subject to sales tax. Taxpayer argues that

the repairs are made "for internal purposes only and the parts were purchased outside of Washington State from Lincoln, Nebraska."

#### DISCUSSION:

[1] The retail sales tax is imposed on each retail sale in this state. RCW 82.08.010. Retail sale is defined in RCW 82.04.050, in part, as

the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers.

WAC 458-20-173 (Rule 173) implements the above provision. Under the Rule, Lessor's repairs to the crane are the repairing of personal property for a consumer, i.e., the lessee. The fact that the insurance company actually pays for the repairs and that Lessor is an additional named insured should have no bearing on the issue. Lessor performed repair work for Lessee. Actual ownership of the property is not really relevant, as in this case the repairs are made for a consumer, the Lessee.

Further, taxpayer's argument that the repairs should not be subject to retail sales tax because the parts came from Lincoln, Nebraska, is without merit. Where the parts actually came from is unimportant. The fact that they were used to repair tangible personal property in Washington renders them subject to the sales tax in this case.

#### DECISION AND DISPOSITION:

The above-described transaction is subject to Washington's retail sales tax.

This legal opinion may be relied upon for reporting purposes and as support of the reporting method in the event of an audit. This ruling is issued pursuant to WAC 458-20-100(18) and is based upon only the facts that were disclosed by the taxpayer. In this regard, the department has no obligation to ascertain whether the taxpayer has revealed all of the relevant facts or whether the facts disclosed are actually true. This legal opinion shall bind this taxpayer and the department upon these facts. However, it shall not be binding if there are relevant facts which are in existence but have not been disclosed at the time this opinion was issued; if, subsequently, the disclosed facts are ultimately determined to be false; or if the facts as disclosed subsequently change and no new opinion has been issued which takes into consideration those changes. This opinion may be rescinded or revoked in the future, however, any such rescission or revocation shall not affect prior liability and shall have a prospective application only.

DATED this 28th day of July 1988.