

Cite as 6 WTD 201 (1988)

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 Refund of)	
)	No. 88-273
)	
. . .)	Unregistered
)	
)	

[1] **RULE 178 AND RCW 82.12.035:** SALES/USE TAX -- PAID TO ANOTHER STATE -- CREDIT FOR -- AUTOMOBILE. A credit for retail sales or use tax paid to another state on the purchase of an automobile is not available when the motor vehicle is used in Washington prior to the time that the tax is paid in the other state.

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: . . .

NATURE OF ACTION:

Petition for refund of use tax paid on automobile registered in this state. Taxpayer seeks refund in the amount of the sales tax paid on the vehicle to the state of Kansas.

FACTS AND ISSUES:

Dressel, A.L.J. -- . . . (taxpayer), who at the time was a resident of Topeka, Kansas, purchased a 1986 Chevrolet station wagon in Kansas. It was his intent then to register and use the vehicle in the state of Washington. At the time of purchase, the taxpayer did not pay Kansas sales tax. He apparently immediately made application to the state of Washington for registration of the vehicle there. Records reflect that he paid use tax of \$1,117.50 to Washington on March 21, 1986. Approximately March 26, 1987, the taxpayer was notified by the Kansas Department of Revenue that he should have paid sales tax at the time he purchased the vehicle in Kansas. The taxpayer successfully protested the assessment of

penalty and interest on the delinquent sales tax amount, but did pay the tax demanded which was \$816.61. He now asks for a refund in that amount of the use tax total paid to the state of Washington. In so doing, the taxpayer cites RCW 82.12.035, the very purpose of which, he states, is to correct the type of situation at hand, viz., taxes paid on the same vehicle in two states.

Whether the Washington use tax may be reduced by the amount of Kansas sales tax paid by the same owner on the same vehicle is the issue in this case.

DISCUSSION:

It is well-established in this state, as well as others, 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).

The statute cited by the taxpayer reads in its entirety:

RCW 82.12.035. Credit for retail sales or use taxes paid to other states or political subdivisions with respect to property used. A credit shall be allowed against the taxes imposed by this chapter [use tax] upon the use of tangible personal property in this state in the amount that the present user thereof or his bailor or donor has paid a retail sales or use tax with respect to such property to any other state, political subdivision thereof, or the District of Columbia, *prior to the use of such property in this state.* (Bracketed inclusion and italics ours.)

[1] For whatever reason, the legislature qualified the credit available for out-of-state sales or use tax by adding the phrase which is *italicized* above. It is not our province to speculate why they did that. If a statute is unambiguous, its meaning must be derived from its language alone. *Stewart Carpet Service v. Contractor's Bonding and Insurance Company*, 105 Wn.2d 353, 358, 715 P.2d 115 (1986).

Here, as to the statutory provision under consideration, we fail to see an ambiguity. To receive a credit for sales tax paid to another jurisdiction, such tax must have been paid "prior to the use of such property in this state." The taxpayer acknowledges that the subject automobile was used in Washington before sales tax was paid in Kansas. Consequently, the taxpayer is precluded from taking a credit for that tax and applying it against his Washington use tax liability.

DECISION AND DISPOSITION:

The taxpayer's petition is denied.

DATED this 20th day of July 1988.