

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. 88-279
)	
. . . )	Watercraft Valuation
)	. . .
)	DOR # . . .

- [1] **RCW 84.40.065, 84.40.080, 84.40.085:** BOAT TAX -- COMMERCIAL FISHING VESSEL -- DUTY TO LIST -- LISTING OMITTED PROPERTY -- LIMITATION PERIOD. A boat owner who failed to list the vessel with the Department of Revenue as required by statute is liable for the taxes due for the three years preceding the year of discovery by the Department of such failure to list.
- [2] **RCW 84.40.130:** BOAT TAX -- COMMERCIAL FISHING VESSEL -- FAILURE TO LIST -- PENALTY. Assessment of penalty for each month the vessel is not listed up to a maximum of 25% for failure to list personal property is mandatory unless reasonable cause for failure to list is shown. Where taxpayer purchases a fishing boat and does not show reasonable cause for failure to list, department has no authority to waive penalty.

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:

Appeal for refund of amounts paid on assessment of property tax and penalty on a fishing vessel.

FACTS AND ISSUES:

Johnson, A.L.J. -- Taxpayer owns a fishing boat which he purchased in 1983. The boat was not listed with the Department of Revenue until 1987, when taxpayer responded to a Department questionnaire asking for information on date of acquisition and purchase price. Upon receipt of the information, the Department issued an assessment for the years 1984, 1985 and 1986; the amount due

included a 25% penalty for each year for failure to list the property. Taxpayer paid the assessments promptly. His statements in his petition and in other documents indicate that he does not dispute the fact of tax liability for the years in question but that he considers it unfair that his response to a Department questionnaire resulted in assessed taxes for prior years.

#### DISCUSSION:

[1] RCW 84.40.065 requires taxpayers to list all vessels which they own, possess or control if such items of property are subject to ad valorem taxation. All personal property subject to Washington taxation is to be listed and assessed every year and valued at 100% of its true value as of the first day of January of each year. RCW 84.40.020. When an assessment on omitted property is made, the Department of Revenue may not assess ad valorem taxes for a period longer than three years preceding the year of discovery of the omission. RCW 84.40.085. This taxpayer purchased a fishing boat in 1983; he first listed it in response to a Department of Revenue questionnaire in 1987. Upon receipt of the questionnaire, taxpayer was assessed taxes for 1984, 1985 and 1986, the three years preceding 1987, when the omission was discovered. The assessment amounts included the statutory 25% penalty for each year for failure to list the boat.

RCW 84.40.080 permits taxpayers who pay omitted assessments to avoid penalties and interest for late payment by paying the full amount of the assessment within one year of the due date of the taxes for the year in which the assessment is made. This taxpayer promptly paid the full amount of the assessments for all three years, avoiding any late penalties or interest under this statute.

[2] RCW 84.40.130(1) provides that

[i]f any person. . .shall fail or refuse to deliver to the assessor . . .a list of the taxable personal property which he is required to list under this chapter, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, there shall be added to the amount of tax assessed against him. . .on account of such personal property five percent of the amount of such tax. . . not exceeding twenty-five percent in the aggregate. Such penalty shall be collected in the same manner as the tax to which it is added.

Although purchased in 1983, the vessel went unlisted until 1987, and that status changed only because of a request for information from the Department of Revenue. Taxpayer has suggested no reasonable cause for the delay. Assessment of the penalty is mandatory absent such a showing, and the Department is without authority to waive the penalty in this case. It is the obligation of taxpayers in this state to correctly inform themselves of the

tax consequences of their activities. This Department maintains a staff of qualified personnel to whom inquiries regarding such matters may be addressed, and information is freely available without charge. Had the taxpayer inquired, he would certainly have been advised that he was required to list the vessel with the Department and to pay taxes.

DECISION AND DISPOSITION:

Taxpayer's petition is denied.

DATED this 20th day of July 1988.