

Cite as Det. No. 14-0105, 33 WTD 486 (2014)

BEFORE THE APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Appeal of Tax Ruling of) D E T E R M I N A T I O N
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 No. 14-0105
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 Registration No. . . .
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[1] RULE 248: B&O TAX – SALES TAX – MONETIZED BULLION – EXEMPTION. Precious metal bullion and monetized bullion are exempt from B&O and retail sales taxes per RCW 82.04.062.

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.

Eckholm, A.L.J. – A collector of rare coins appeals a tax ruling that coins purchased for their value as collector items are subject to retail sales tax on the selling price that exceeds the face value of the currency. The coin collector asserts that the sales of rare coins are sales of monetized bullion and exempt from retail sales tax pursuant to RCW 82.04.062 and WAC 458-20-248. Petition granted.¹

ISSUE

Whether sales of rare coins are sales of monetized bullion and exempt from retail sales tax pursuant to RCW 82.04.062 and WAC 458-20-248.

FINDINGS OF FACT

[Taxpayer] submitted two tax ruling requests to the Department of Revenue (Department) Taxpayer Information and Education Division (TI&E) as to whether the sales of foreign metal coins are subject to retail sales tax. TI&E's first response was, as follows:

Question

I hope you can help me find the answer to this question: are foreign (Mexican, Roman, Chinese, Japanese, etc.) metal coins purchased from a retail dealer or at an auction exempt from retail sales tax?

¹ Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

Response

Coins (legal tender) traded for their value as collector-items or any purpose other than for their value as legal tender, are taxable as a sale of tangible personal property subject to retail sales tax on the selling price that exceeds the face value of the currency. The amount received up to the face value of the coins is not taxable.

If the coins are no longer legal tender, retail sales tax is due on the full selling price and there is no deduction for the face value of such coins.

Electronic message from TI&E to the taxpayers, dated March 8, 2013.

The taxpayers submitted a second tax ruling request that specifically referenced the authorities of RCW 82.04.062 and WAC 458-20-248 (Rule 248). TI&E responded to this request, as follows:

You wrote:

At 2:30 p.m. on March 1, 2013, I called the Department of Revenue about sales tax on foreign coins purchased from auctions or retail coin stores. She spoke to someone in the Ruling Dept. who said that, under RCW 82.04.062 and WAC 458-20-248, there is no sales tax, or B&O tax, for those purchases; she also told me that the phone info was not binding and that I should submit a ruling request. Can you please advise me whether, under RCW 82.04.062 and WAC 458-20-248, metal coins from foreign countries (Mexican, Roman, Chinese, Japanese, etc.) sold at retail or at auctions are exempt from retail sales tax.

Our response:

The taxability of coins depends on the facts of the situation.

Exempt

A coin that is traded for its face value as legal tender/money is intangible personal property and its sale is not subject to retail sales tax, or Retailing B&O tax.

Taxable

Retail sales tax applies when coins are sold as tangible personal property such as, but not limited to, rare or collectible coins sold for their value as a collector-item or any purpose other than the coins (sic) value as legal tender. The taxable amount is the amount over and above the face value of the coin. The income is taxable under the Retailing classification of the B&O tax. (The amount a coin sells for up to its face value is not taxable.)

...

Electronic message from TI&E to the taxpayers, dated March 26, 2013.

The taxpayers appealed the tax rulings to the Department's Appeals Division, asserting that, as collectors of rare coins, they purchase both domestic and foreign coins (primarily those used as a medium of exchange in the past), and do not purchase the coins for the purpose of manufacturing jewelry or artworks; therefore, those sales are sales of monetized bullion and exempt from retail sales tax pursuant to RCW 82.04.062 and Rule 248. At the hearing, the taxpayers displayed sample rare coins made of silver or other metals that were used as a medium of exchange in foreign nations in the past, and provided documentation of the properties of the coins.

ANALYSIS

Retail sales tax is imposed on each retail sale of tangible personal property in this state "unless the sale is specifically excluded from the RCW 82.04.050 definition of retail sale." RCW 82.08.020(1)(a). "Sale at retail" or "retail sale" are defined in RCW 82.04.050 to include every sale of tangible personal property to all persons irrespective of the nature of their business unless an exclusion applies. RCW 82.04.050. The sale of monetized bullion is excluded from the definitions of "sale at retail" and "retail sale" pursuant to RCW 82.04.062(1). *See* Det. No. 99-112, 19 WTD 799, 803 (2000) (to qualify as a sale of monetized bullion exempt from business and occupation (B&O) tax and retail sales tax per RCW 82.04.062 and Rule 248, the item must be a medium of exchange manufactured from gold, silver, or other metals; sales of paper silver certificates do not qualify); Det. No. 13-0144, 33 WTD 14, 16 fn. 5 (2014) (tax exemption for sales of monetized bullion per RCW 82.04.062 and Rule 248, does not apply to non-metal collectible currency).

"Monetized bullion" is defined in RCW 82.04.062(3) as:

. . . coins or other forms of money manufactured from gold, silver, or other metals and *heretofore, now, or hereafter* used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

(Emphasis added.) The above definition of "monetized bullion" specifically includes metal coins used as a medium of exchange, *in the past, present or future*, in the United States or foreign nations.

The Department's rule explaining the tax exemption in RCW 82.04.062, Rule 248, provides, in pertinent part:

Effective July 1, 1985, amounts derived from *sales of precious metal bullion and monetized bullion as defined herein, are not subject to business and occupation tax under either the wholesaling or retailing classification or to retail sales tax.* Statutory law expressly excludes such sales from the definitions of the terms, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail."

Sales of metal money, in coined or other form, which is recognized as a medium of exchange in the financial marketplace, are not taxable. However, sales of coin or

money whether or not recognized as a medium of exchange, to jewelers or other persons for the purpose of manufacturing jewelry or artworks therefrom are fully taxable. ...

It is presumed that all sales of coin and metal money are entitled to tax exemption ...

(Emphasis added.)²

The taxpayers indicate that, as collectors of rare coins, they purchase domestic and foreign metal coins that were used as a medium of exchange in the past, and do not purchase the coins for the purpose of manufacturing jewelry or artworks. The coins described by the taxpayers fall within the statutory definition of “monetized bullion,” and sales of such coins are exempt from retail sales tax under RCW 82.04.062 and Rule 248. The taxpayer’s petition is granted and TI&E’s tax ruling is modified consistent with this determination.

DECISION AND DISPOSITION

The taxpayers’ petition is granted and TI&E’s tax ruling is modified consistent with this determination, accordingly: sales of coins manufactured from gold, silver, or other metals, for purposes other than to be manufactured into jewelry or works of art, are exempt from retail sales tax pursuant to RCW 82.04.062 and WAC 458-20-248.

Dated this 25th day of March 2014.

² Rule 248 reiterates the definition of “monetized bullion” in RCW 82.04.062(3). In addition, Rule 248 explains the application of the service and other activities B&O tax on commissions earned upon sales of precious metals by dealers, brokers, and other agents, who sell or buy precious metal bullion or monetized bullion for the accounts of customers. See 82.04.062(2).