



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

February 23, 2010

Lynn Nordby
Municipal Research and Services Center of Washington
2601 4th Ave, Suite 800
Seattle, WA 98121-1280

Tax Registration No.: 600 011 111

Dear Lynn Nordby:

Thank you for your letter dated February 9, 2010, regarding 1) the taxability of watering landscaping through a separately metered irrigation account and 2) the deductibility of services from one political subdivision to another.

Facts:

We've received questions from municipalities about exemption from the B&O tax on their utilities specifically the following:

Question & Answer

1. WAC 458-20-189 subsection (d) exempts revenue from irrigation. Some cities have customers with separately metered irrigation accounts. This is common where a city bases its sewer bill on water consumption and allows property owners with extensive landscaping to open a separate metered account for irrigation that is not used to compute their sewer bill. Is this an appropriate exemption under the WAC?

We assume you're referring to WAC 458-20-179(9)(d), and not WAC 458-20-189 subsection (d). WAC 458-20-179(9)(d) states: "[a]mounts derived from the distribution of water through an irrigation system, solely for irrigation purposes." This exemption can also be found in RCW 82.16.050(7).

According to 19 WTD 328, when an irrigation district supplies potable water and some of the water is segregated and separately supplied solely for the nourishing of plant life, as opposed to water

Taxpayer Services
PO Box 47478 ♦ Olympia, Washington 98504-7478 ♦ Phone (360) 705-6717 ♦ Fax (360) 705-6655
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supplied for domestic, municipal, or industrial uses, charges for such separately supplied water are subject to the deduction for water distributed through an "irrigation system, for irrigation purposes." Therefore, this is an appropriate exemption under the WAC.

2. RCW 82.04.4291 which reads in part as follows: "In computing tax there may be deducted from the measure of tax amounts derived by a political subdivision of the state of Washington from another political subdivision of the state of Washington ..." Does this mean that the revenue from utility charges to state, county, school, etc, property is exempt?

RCW 82.04.4291 allows a deduction from one political subdivision of the state of Washington to another for the activities listed in RCW 82.04.290. RCW 82.04.290 indicates three separate categories of activities that qualify: 1) international investment management services, 2) service which does not constitute a "sale at retail" or a "sale at wholesale," and 3) aerospace product development.

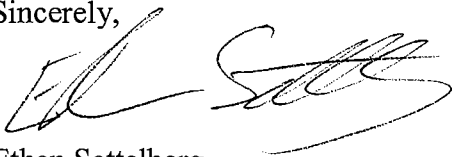
The exemption under 82.04.4291 only applies to activities that are subject to B&O tax. Utility services are taxable under a separate section, RCW 82.16, which covers the public utility tax (PUT). Therefore they do not qualify for this exemption.

This ruling is binding upon both Municipal Research and Services Center of Washington and the Department of Revenue under the facts presented. It will remain binding until: the facts change; the law (either by statute or court decision) changes; the applicable rule(s) change; the Department of Revenue publicly announces a change in the policy upon which this ruling is based; or you are notified in writing that this ruling is not valid.

If you disagree with this ruling, you have the right to appeal to the Department of Revenue's Appeals Division, PO Box 47460, Olympia, WA 98504-7460. You must appeal within 30 days of the date of this letter. WAC 458-20-100 explains the Department's appeal procedures.

If you have further questions, please do not hesitate to write.

Sincerely,



Ethan Sattelberg
Tax Information Specialist
Taxpayer Information and Education

The Washington Administrative Code (WAC) is available on our web site at <http://dor.wa.gov>. Click on the "Find a law or rule" link at the upper left; click on the "Excise tax rules" link; scroll down and click on the Title "458-20" link; and then select the corresponding excise tax rule.