

NAME: RE: * * *

NUMBER: HEARING NO. 40,607

COURT: COMPTROLLER OF PUBLIC ACCOUNTS OF THE STATE OF TEXAS

CITE: 2006 Tex. Tax LEXIS 34

DATE: February 23, 2006

PANEL: [*1]

ROY G. SCUDDAY, Administrative Law Judge

COUNSEL: STANLEY K. COPPINGER, Representing Tax Division

* * *, Representing Petitioner

OPINIONBY: SCUDDAY

TAXPAYER NO.: * * *

AUDIT OFFICE: * * *

AUDIT PERIOD: JANUARY 1, 1992 THROUGH DECEMBER 31, 1994

SALES AND USE TAX - DIRECT PAY PERMIT/RDT

COMPTROLLER'S DECISION UPON REHEARING

On January 27, 2006 the Tax Division timely filed a Motion for Rehearing concerning the January 4, 2006 Comptroller's Decision issued in the above referenced matter. On February 7, 2006 Petitioner filed its response agreeing with the Tax Division's Motion.

Having considered the Petitioner's Motion and the Response of the Tax Division, it was determined that the Motion for Rehearing should be, and the same was thereby GRANTED on February 14, 2006.

Rehearing was granted in order for the final figures to be amended in accordance with the Tax Division's Motion for Rehearing.

Except as modified by this Decision, the Comptroller's Decision in this case, issued January 4, 2006 is incorporated herein and reaffirmed.

Signed February 23, 2006.

ORDER OF THE COMPTROLLER

The above decision of the Administrative Law Judge is approved and adopted in all respects. This decision becomes [*2] final twenty-three (23) days from the date of this Order.

If a rehearing is desired, a Motion for Rehearing must be filed with the Administrative Law Judge no later than twenty-three (23) days after the date of this Order, and must state the grounds upon which the motion is based.

RENDERED and ISSUED February 23, 2006.

CAROLE KEETON STRAYHORN, Texas Comptroller

ATTACHMENT

HEARING NO. 40,607

RE: * * *

TAXPAYER NO.: * * *

AUDIT OFFICE: * * *

AUDIT PERIOD: JANUARY 1, 1992 THROUGH DECEMBER 31, 1994

SALES AND USE TAX - DIRECT PAY PERMIT/RDT

BEFORE THE COMPTROLLER OF PUBLIC ACCOUNTS OF THE STATE OF TEXAS

ROY G. SCUDDAY
Administrative Law Judge

STANLEY K. COPPINGER
Representing Tax Division

* * *

Representing Petitioner

COMPTROLLER'S DECISION

PRELIMINARY DISCUSSION:

This case was heard at an oral hearing on July 22, 2003. * * *, Petitioner, was represented at the hearing by * * * and * * *. The Tax Division was represented at the hearing by Assistant General Counsel **Elias V. Lorenzana, Jr.**, who called as witnesses Barry Williams, with the * * * Audit Office, and Henry Flynt, an auditor with the Tax Division. The case was subsequently transferred to Assistant General [*3] Counsel Stanley K. Coppinger.

At Petitioner's request, certain issues in this case are decided based upon the written submissions of the parties. Notice has been taken of all Comptroller's records pertinent to Petitioner or the issues raised in this case.

Unless otherwise indicated, Section references are to Title 2 of the Texas Tax Code, and Rule references are to sections of Title 34, Texas Administrative Code.

On December 3, 2003, the Tax Division filed Exceptions to the Amended Proposed Comptroller's Decision issued November 18, 2003. Petitioner filed Exceptions to the Amended Proposed Comptroller's Decision on December 10, 2003. The Tax Division filed its Response to Petitioner's Exceptions on December 30, 2003. Petitioner filed its Response to the Tax Division's Exceptions on January 9, 2004. The Comptroller and the Administrative Law Judge have reviewed the Exceptions and Responses, and this Comptroller's Decision is the result thereof.

AGREEMENT OF THE PARTIES:

The Tax Division agreed to a number of audit adjustments and credits as set forth in its Fourth Supplemental Response dated August 7, 2003. Petitioner and the Tax Division agreed to additional adjustments [*4] as set forth in the Agreed Motion to Adjust Exam 204-50 and the Agreed Motion to Amend Audit Concerning Petitioner's (Part Two) "Previously Agreed Adjustments" Contention, both dated July 14, 2005.

PETITIONER'S CONTENTIONS:

1. Petitioner contends that the charge by * * * (COMPANY A) for installation of an upgraded rotor should be deleted from the audit as nontaxable maintenance.

2. Petitioner contends that the charge by * * * (COMPANY B) for blasting and recoating of a small portion of a scrubber tower should be deleted from the audit as nontaxable maintenance.
3. Petitioner contends that the charge by * * * (COMPANY C) for a maintenance service agreement on its computerized plant controls system should be deleted from the audit as maintenance on exempt manufacturing equipment.
4. Petitioner contends that the exclusion by the auditor of a negative transaction from the sample base of Exam 204-50 should be reversed.
5. Petitioner contends that items coded "M" in its accounting system and not corrected in its journal books are entitled to the manufacturing credit.
6. Petitioner contends that it accrued tax in error in its use tax sample for its LOCATION A.
7. Petitioner [*5] contends that certain scheduled items should be deleted because they were for nontaxable services.
8. Petitioner contends that it accrued tax in error in its use tax sample for its other steam electric stations and substations.
9. Petitioner contends that it should receive audit reductions and/or use tax credit for new pole, new hole transactions.
10. Petitioner contends that it is entitled to franchise tax credit for manufacturing items.

GENERAL FINDINGS OF FACT:

1. * * * (Petitioner) owns and operates several electric power plants in Texas.
2. Petitioner was audited for direct payment sales tax compliance for the audit period of January 1, 1992, through December 31, 1994. On December 17, 1998, the Comptroller sent Petitioner a Texas Notification of Audit Results that showed an amount due that included tax, penalty, and interest through the date of the Notice. Petitioner's timely filed request for redetermination resulted in this proceeding.

DISCUSSION AND CONCLUSIONS OF LAW:

PETITIONER'S FIRST CONTENTION:

FINDING OF FACT NO. 3

Effective February 25, 1991, Petitioner entered into a contract with COMPANY A for the installation of a Unit 2 upgraded Rotor in Unit [*6] 1, and performance of miscellaneous valve work and turbine work at Petitioner's LOCATION A for a total contract price of \$ * * *. The contract provided that the work would commence and be completed during two scheduled, periodic outages in the spring and fall of 1991. The auditor scheduled \$ * * * of the contract amount allocated to labor in Exam 105 of the audit, but has agreed that all but the labor cost of the installation of the upgraded rotor was nontaxable maintenance. The turbine in which the upgraded rotor was placed was functioning at the time of the outages.

Petitioner's first contention should be granted.

Petitioner contends that the installation of the upgraded generator rotor at the LOCATION A was nontaxable maintenance.

Section 151.0101(a)(13) includes "real property repair and remodeling services" in the definition of services subject to sales tax. At the time of the charges in issue, January 31, 1992, Rule 3.357, effective October 17, 1990, defined "maintenance" and "remodeling" as follows:

(3) Maintenance on real property -- All scheduled periodic work on operational and functioning improvements to real property necessary to sustain or support safe, efficient, [*7] continuous operations, or to keep in good working order by preventing the decline, failure, lapse, or deterioration of the improvement.

(8) Remodeling or modification - To make over or rebuild real property or structures in a similar but different way. Replacement or upgrading of any part of an existing structure is remodeling or modification. . . .

Unlike the presumption as to the sale of tangible personal property that all sales are taxable, because not all services are taxable, the AHS bears the burden of establishing a prima facie case that a taxable service is being performed. Once the AHS establishes its prima facie case, the burden then shifts to the taxpayer to prove that the service being performed is not subject to sales tax. Comptroller Decision No. 30,461 (1994).

In this case, Petitioner raised the issue of maintenance. As a result, the AHS was required to present a prima facie case that Petitioner's charges were for taxable non-residential real property repair and remodeling. To do so, the AHS has pointed to the fact that the labor was to install an upgraded rotor, thereby being taxable remodeling under Rule 3.357(a)(8). In response, Petitioner points to the language [*8] of Rule 3.357(a)(7) and 3.357(a)(3) in the rule that was effective December 7, 1992, after the date of the transactions. The stated purpose of the 1992 amendment was to clarify the "definition of real property 'maintenance,'" and add "definitions of "scheduled" and "periodic," denoting no change in policy. As a result, Petitioner's reference to the 1992 rule language is appropriate.

The 1992 amendment to the definition of "remodeling or modification" in Rule 3.357(a)(7) adds the sentence "However, the replacement of an item within an operating and functioning unit in accordance with subsection (a)(3) of this rule is not taxable remodeling or modification." The definition of "maintenance" in Rule 3.357(a)(3) is likewise amended as follows:

(4) Maintenance on real property. For operational and functioning improvements to realty, maintenance means scheduled, periodic work necessary to sustain or support safe, efficient, continuous operations, or to prevent decline, failure, lapse, or deterioration of the improvement. Taxable real property services covered by Rule 3.356 concerning Real Property Service do not qualify as maintenance.

(A) As it relates to maintenance, the term "scheduled" [*9] means anticipated and designated to occur within a given time period or production level.

(B) As it relates to maintenance, the term "periodic" means ongoing or continual or at least occurring at intervals of time or production which are generally predictable.

Comptroller Decision No. 33,063 (1996) held that "restoration work performed on functioning real property, during a shut-down or turnaround, should be treated as maintenance of real property." A November 13, 1997 letter from Wade Anderson, Director of Tax Policy (9711963L) states that the "labor to remove insulation and replace it with new insulation (during a plant shutdown) is exempt," i.e., nontaxable maintenance of real property.

As set forth in Finding of Fact No. 3, this rotor replacement was replacement of an item within an operating and functioning unit, and occurred during a scheduled and periodic outage. Pursuant to Rule 3.357(a)(8) as amended by the 1992 language, and to Comptroller Decision No. 33,063 and the Wade Anderson letter, such replacement is not taxable remodeling, but, rather, the replacement of a working rotor with an improved rotor during a shutdown, and the charge for the labor should be deleted [*10] from the audit.

PETITIONER'S SECOND CONTENTION:

FINDING OF FACT NO. 4

On February 16, 1993, COMPANY B invoiced Petitioner for work performed on a scrubbing tower at the LOCATION B, consisting of blasting, coating, and sealing 875 sq. ft. of the 12,000 sq. ft. tower. The functioning tower had been removed from service on January 21, 1993, for preventive maintenance inspection, and COMPANY B's invoice was for

work performed during the period the tower was out of service. The auditor scheduled the charge for this work in Exam 103 of the audit.

Petitioner's second contention should be granted.

Petitioner contends that the blasting, coating, and sealing of 7% of a functioning scrubber tower that had been removed from service for preventive maintenance inspection was nontaxable maintenance.

At the time of the charges in issue, March 31, 1993, Rule 3.357 defined "maintenance" as stated above and "repair" and "restoration" as follows:

(8) Repair -- To mend or bring back as near as can be to its original working order real property which was broken, damaged, or defective. However, minor repair work performed on operational and functioning improvements to realty within the meaning [*11] of subsection (a)(3) of this rule is not taxable repair.

(10) Restoration -- An activity performed to bring back as near as can be to its original condition real property which is still operating and functional but that has faded, declined, or deteriorated, that is not work performed within the meaning of subsection (a)(3) of this rule.

To make its prima facie case that this labor was taxable restoration or repair, the AHS pointed out that this work was performed by COMPANY B on an as needed basis while Petitioner was performing preventive maintenance on the scrubber, and the work was not minor. However, as noted by Petitioner, the definition of repair in Rule 3.357(a)(8) specifically excludes "minor repair work performed on operational and functioning improvements to realty" during scheduled maintenance, and that similar language was added to the definition of "restoration" in the 2002 rule amendment.

As stated in Taxability Ruling 200211552L (November 5, 2002), for "manufacturing and processing plants during a regularly, scheduled shut down or turnaround, the agency's policy is to consider repairs or restoration as "major" if they are performed on equipment that are not functional [*12] prior to the regularly, scheduled shut down or turnaround." (It should be noted that another statement in that same letter to the effect that upgrading and remodeling of real property do not qualify as nontaxable maintenance, and the section in Rule 3.357(a)(7) to which it references, are in conflict with other sections of the rule.)

As set forth in Finding of Fact No. 4, scrubber restoration was on an item that was an operating and functioning unit, and occurred during a scheduled and periodic maintenance downtime. Pursuant to Rule 3.357(a)(8) and to the Taxability Ruling, such work was not taxable repair or restoration, and the charge for the labor should be deleted from the audit.

PETITIONER'S THIRD CONTENTION:

FINDING OF FACT NO. 5

Effective August 27, 1993, Petitioner entered into a contract with COMPANY C to provide a "Comprehensive Maintenance Agreement for LOCATION C Unit 4 to provide 24 hour coverage for equipment listed in Attachment B from the * * * Response Center, including the Module Exchange Program, * * * Remote Support Service, plus on-site corrective services as required in accordance with Attachment A-Systems I/A Comprehensive * * * Service Agreement." This [*13] maintenance agreement was for a computerized plant control system that enables control room operators both to receive information or data necessary for the operation of the equipment used to generate electricity and to execute the necessary commands to operate the equipment. Petitioner utilized under this agreement the Technical Hotline and Bulletin Board services that are telephone support and technical assistance services for the hardware and software, the Call Management service that gave Petitioner a priority response from COMPANY C's telephone hotline, and the * * * Remote monitoring and quarterly reporting service. The auditor scheduled a payment under this contract in Exam 103 of the audit. During the period covered by the payment, the only activity provided was these four services. The AHS agreed that these services would be exempt from tax if the computerized control system was exempt manufacturing equipment.

Petitioner's third contention should be denied.

Petitioner contends that these services were exempt under Sec. 151.3111 as being performed on exempt manufacturing equipment. As noted in Finding of Fact No. 5, this contention is based on the determination of whether [*14] the equipment that these services were for qualifies as manufacturing equipment.

As pointed out by the AHS, at the time of the purchase of the computerized control system in January 1993, (Finding of Fact No. 42) there was no exemption from tax for equipment having a life expectancy greater than six months, and there was no tax reduction credit allowed either. As a result, the equipment was not exempt at the time of the purchase, nor, for that matter, was it exempt at the time of the purchase of the maintenance services, and these services are not exempt under Sec. 151.3111.

PETITIONER'S FOURTH CONTENTION:

FINDING OF FACT NO. 6

Subsequent to the completion of the audit, Petitioner and the auditor began a process of amending the audit, which has continued through the hearing. As part of that process, in order to determine the manufacturing credits available to Petitioner, the auditor took a sample of 100 transactions, which he then divided into three groups dependant on the amount of partial credit available, i.e., 25% (Exam 204-25), 50% (Exam 204-50), 75% (Exam 204-75).

FINDING OF FACT NO. 7

Only nine transactions were in the Exam 204-50 sample. One of those transactions [*15] was a negative \$ * * *. The other eight transactions averaged \$ * * *. The auditor excluded the negative transaction from the sample as being not representative.

FINDING OF FACT NO. 8

The auditor changed the allowable credit for a transaction in Exam 204-75 to 50%, but left that transaction in that exam rather than transferring it to Exam 204-50 where it would have raised the average transaction amount to \$ * * *.

Petitioner's fourth contention has been rendered moot by the agreement of the parties.

PETITIONER'S FIFTH CONTENTION:

FINDING OF FACT NO. 9

On September 6, 1994, COMPANY A invoiced Petitioner for \$ * * * for frame seals for eight hydrogen cooler gaskets for the LOCATION A. A hydrogen cooler is used to cool the turbine generator by cooling the hydrogen gas in the generator. The gaskets are used to seal the lower tubesheet. The transaction was scheduled in Exam 204 of the audit.

Petitioner's fifth contention should be granted.

Petitioner contends that it is entitled to credit for tax accrued on the purchase of the hydrogen cooler gaskets. It is clear that the hydrogen cooler is necessary and essential to the manufacturing operation, and the gaskets therefore [*16] qualify for the credit under Sec. 151.318(g).

PETITIONER'S SIXTH CONTENTION:

FINDING OF FACT NO. 10

On May 28, 1993, Petitioner entered into a contract with * * * (COMPANY D) for the remodeling of the Material Staging Building at the LOCATION A. Specifically, the project included the "addition of structural enhancements and electric power supply for a new electrically powered stair climber," "evacuation, shaft erection, HVAC, electric power supply, etc., to support the addition of a new hydraulically operated elevator," addition of one "motorized 10 ton over-

head bridge crane and two (2) 5 ton monorails for chain falls," extension and erection of modifications to existing mezzanine, installation of a metal chain-link fence, a Tool Room, an I&C Shop area, "relocation/installation of a Document Control (DCC) operation," "removal of designated existing walls and doors on both the 2nd and 3rd floor areas," along with necessary modifications to the HVAC, electrical, lighting, plumbing, sanitary drains, Fire Detection Systems, and Fire Protection system. Other than the reference to extension of the existing mezzanine, there is nothing in the record to indicate what portion of the contract [*17] cost constituted new construction of that extension. Petitioner accrued and remitted sales tax on certain of the progress payments made pursuant to this contract, and the auditor scheduled certain of the payments in Exam 205 of the audit.

Petitioner contends that it should receive credit for the labor cost of the construction of an extension to an existing mezzanine. However, Petitioner has not shown what portion of the construction cost was attributable to that extension, Finding of Fact No. 10, and no credit can be given. In its Exceptions, Petitioner asserts that it can show what portion of the construction cost was attributable to new construction. Until it does so, no credit can be given.

FINDING OF FACT NO. 11

On October 28, 1994, * * * (COMPANY E) invoiced Petitioner for a gate valve machine, a portable machine necessary to test valves on the primary plant equipment at its LOCATION A for defects. Petitioner accrued and remitted use tax on the charge.

Petitioner contends that it should receive credit on the purchase of the portable machine necessary to test valves on the primary generating plant equipment for defects, Finding of Fact No. 11. The AHS responds that this [*18] testing equipment is incidental to the manufacturing process and not exempt under Sec. 151.318. Petitioner replies that the "continued operational functionality of valves opening and closing in the primary plant systems is paramount to Petitioner's safe and continuous manufacturing process," and cites *Sharp v. Tyler Pipe Industries, Inc.*, 919 S.W.2d 157, (Tex. Ct. App.--Austin, 1996, writ denied).

Tyler Pipe concerned equipment used to make sand molds for the production of cast iron pipe and fittings. The decision found that each mold could only be used once, and that the mold-making equipment was needed every time a pipe or fitting was made. The decision held that because "each mold can be used to make only one product, the mold-making equipment has a direct relationship to the production process." The decision held that equipment used to make sand molds qualified for the exemption because it was used in the actual manufacturing of the pipe.

Prior to October 1, 1997, neither Sec. 151.318 nor Rule 3.300 clarified what was included within the exemption language of Sec. 151.318(a)(2) that exempted "tangible personal property used or consumed in or during [*19] the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation." As a result, the Comptroller developed the "one step removed" test to determine if an item qualified for the exemption. Comptroller Decision 38,388 (2001) held that Tyler Pipe did not state that all equipment one step removed from the manufacturing process would now qualify for the exemption, but, only one-step-removed equipment that was used in or during the actual manufacturing process would qualify.

It appears that the AHS is arguing that the valve testing equipment was not used in or during the actual manufacture of electricity, and that, while the testing equipment may be necessary to the plant operation, it is not necessary and essential to the manufacturing of the electricity. Petitioner argues that the testing equipment, although one step removed, was necessary and essential to the actual electricity manufacturing process and, at the time of the purchase in October 1994, qualified for the manufacturing credit.

David Somerville of the Tax Policy [*20] Division stated in a letter dated January 5, 1995 (9501L1329D12) that testing equipment used by a manufacturer to test their manufacturing equipment does not qualify for exemption under Sec. 151.318(g), presumably because the testing equipment is not used in the actual manufacturing process. Here, Petitioner has not met its burden to prove by clear and convincing evidence that its purchase of the testing equipment falls within the claimed exemption for tangible personal property used in the actual manufacturing process.

FINDING OF FACT NO. 12

On March 31, 1992, * * * (COMPANY F) invoiced Petitioner for ink recorders and charts for the calibration lab at its LOCATION A. These recorders are used for plant monitoring and calibration of the Primary Plant Control Systems used to control the reactor. The transaction was scheduled in Exam 203 of the audit.

Comptroller Decision No. 33,520 (1995) held that Petitioner had not proven by clear and convincing evidence that purchase of chart paper "used as forms to merely record the results of inspection/testing of the product being manufactured at various stages in the manufacturing process, falls within the claimed exemption for tangible [*21] personal property directly used in the actual manufacturing process to achieve quality control over the items being manufactured." As in that contested case, Petitioner has not met its burden to prove by clear and convincing evidence that its purchase of the recorders and charts falls within the claimed exemption for tangible personal property used in the actual manufacturing process.

FINDING OF FACT NO. 13

On March 27, 1992, Petitioner purchased from * * * (COMPANY G) a 55-gallon drum of rust and scale remover concentrate used as a corrosion inhibitor and applied to the reactor during its construction at the LOCATION A. This transaction was scheduled in Exam 202 of the audit.

Petitioner argues that this rust inhibitor was a chemical used or consumed that was necessary and essential to the manufacturing process, and exempt under Sec. 151.318. The AHS responds that this was a chemical used to repair real property. Neither party has pointed out that the record shows that this inhibitor was applied to the reactor during its construction, Finding of Fact No. 13. As a result, it would fall within neither provision, but would be a material consumed as part of new construction of real [*22] property, not tangible personal property that is exempt under Sec. 151.318. The letter relied on by Petitioner in its Exceptions, 9102L1078E02, deals with paint used on tangible personal property, not real property. Accordingly, Petitioner owed the tax on the transaction, and it should remain in the audit.

FINDING OF FACT NO. 14

On May 27, 1993, * * * (COMPANY H) invoiced Petitioner for 10 cartridge filters used during plant outages at the LOCATION A to ensure that the filtration system coolant water in the primary reactor is purified. This transaction was scheduled in Exam 204 of the audit.

The record shows that these cartridge filters were not used during manufacturing, but during plant outages, Finding of Fact No. 14. As a result, they do not come within the exemption of Sec. 151.318, and should remain in the audit.

FINDING OF FACT NO. 15

On January 1, 1989, Petitioner entered into a lease agreement with * * * (COMPANY J) for numerous pieces of equipment. During the course of the audit, pieces of equipment were deleted and added to the lease. Petitioner has presented no evidence to show that the equipment covered by the lease during the audit period was added to the lease [*23] prior to the tax rate change, nor that the lease payments scheduled in Exams 204 and 205 were not correctly scheduled at the higher rate.

Petitioner argues that the COMPANY J equipment leases, Finding of Fact No. 13, should be subject to the rate in effect at the inception of the original lease. The AHS responds that each time a new piece of equipment is added pursuant to a master lease, the correct tax rate is the one in effect when the new equipment is added to the lease. The AHS has the better of the argument.

As stated in Comptroller Decision No. 27,336 (1971), the "proper rate for application of tax to lease payments under fixed-term, fixed-price operating leases of tangible personal property (as we have here) is the rate which is in effect when the leases are consummated." The master lease is merely an agreement to lease equipment, and it is not until delivery of possession of a specific piece of equipment that the lease on that piece of equipment is fully consummated. Inasmuch as Petitioner has not shown that the pieces of equipment covered by the lease payments were added to the lease

prior to the rate change, Petitioner has failed to show by a preponderance of the evidence [*24] that the lease payments were scheduled in error.

PETITIONER'S SEVENTH CONTENTION:

FINDING OF FACT NO. 16

Petitioner contracted with * * * (COMPANY K) to make modifications to the Waste Water Management System at the LOCATION A. The modifications consisted of earthwork, including construction of dikes, construction of concrete structures (API Oil Separator, Inlet Box, Recirculation Basin, Valve Box), realignment of the existing gravel road, construction of a separator surge basin, installation of the leachate collection system sumps and piping, installation of underground piping and fittings, installation of synthetic liners, construction of a new discharge structure and modification of the existing discharge structure, installation of leachate collection pumps, motors, starters, and controls, modification of existing motor control center, and all necessary electrical work. The auditor scheduled a payment to COMPANY K in Exam 205 of the audit. In its Exceptions, Petitioner provided documentation to show what portions of the work performed by COMPANY K were new construction and what were remodeling.

Petitioner contends that the COMPANY K modifications to its Waste Water Management [*25] System at the LOCATION A were new construction.

As set forth in Rule 3.357(b)(3) and (7), when a contract involves both remodeling and new construction the contract "will be taxed in total unless the charge for new construction labor is separately stated," unless it can be established that the charge attributed to the remodeling is "5.0% or less of the overall charge." Inasmuch as Petitioner has provided documentation to show the labor charges attributed to new construction and remodeling, respectively, the auditor, upon verification, should make the appropriate adjustments.

FINDING OF FACT NO. 17

On March 28, August 31, and October 28, 1993, * * * (COMPANY L) invoiced Petitioner for charges for lawn maintenance at its substations. Approximately 20% of the labor costs is attributable to mowing services around electrical equipment at substations inside the substation fence, and approximately 30% is attributable to mowing around electric poles and towers outside the perimeter fence in order to comply with City ordinances requiring grass to be limited to 12 inches tall. The auditor scheduled the charges in Exams 101 and 103 of the audit.

Petitioner asserts that the 20% of the [*26] COMPANY L charges for lawn maintenance at its substations attributable to mowing services around electrical equipment at substations inside the substation fence was to prevent interference with the electrical equipment and prevent catastrophic damage from fires, and that the 30% attributable to mowing around electric poles and towers outside the perimeter fence was in order to comply with City ordinances requiring grass to be limited to 12 inches tall (Finding of Fact No. 15). Although Petitioner argues that the purpose of the city ordinances is for safety, not aesthetics, there is nothing in the record to support that assertion.

The AHS cites three Comptroller Decisions in support of its position that lawn services are taxable even though ancillary benefits of those services are erosion control or fire hazard control. Comptroller Decisions 36,504 (1998), and 36,670 (1998) concerned landscaping services provided as part of new home construction, and are not factually similar to this case. Comptroller Decision No. 35,962 (1999), however, held that lawn services within the fence surrounding a tank farm were taxable because "Petitioner offered no supporting documentation attached to [*27] those invoices to show the services at issue were environmentally related or for purposes of fire prevention." In the present case, the record shows that the primary purpose of the lawn cutting around the electrical equipment inside the fences was for fire prevention, thereby distinguishing this case from Decision No. 35,962. However, the record does not show that the lawn services provided outside the fence pursuant to City ordinances was primarily for fire prevention. Accordingly, 20% of the scheduled charges should be deleted from the audit.

FINDING OF FACT NO. 18

On December 13, 1994, * * * (COMPANY M) invoiced Petitioner \$ * * * to rebuild a Worthington compressor and Acid Wash Cooler permanently mounted on a dry air platform trailer that is registered as a motor vehicle. When the trailer was manufactured the equipment was permanently weld-mounted on it, and became a part of the trailer's chassis. The auditor scheduled the transaction in the amount of \$ * * * in Exam 103 of the audit.

Petitioner contends that the COMPANY M lump-sum charge to rebuild the compressor and cooler are not subject to sales tax. Petitioner cites Comptroller Decision No. 30,730 (1994) in support [*28] of its position. That decision held that when a trailer with equipment attached is leased, sales tax is not due on the value of the equipment, based on the determination that the equipment became a component of the motor vehicle, and the entire vehicle was subject to motor vehicle tax. Following that case, the lump-sum charge to repair the equipment attached to the trailer is for the repair of components of a motor vehicle, and, under Rule 3.290, because the compressor and cooler are part of the trailer's chassis, the lump sum charge is not subject to sales tax. The transaction should be deleted from the audit.

FINDING OF FACT NO. 19

On December 30, 1993, * * * (COMPANY N) invoiced Petitioner \$ * * * (being the total charge less 10% retainage) for the collection of detailed information regarding Petitioner's distribution system, building a mapping system, and populating the data into the geographic information systems. The auditor scheduled \$ * * * of the charge in Exam 104 of the audit.

Petitioner asserts that the COMPANY N charge should be reduced by the invoice credit amount for retainage. The scheduled amount should be so adjusted as the payment did not include the retainage [*29] amount.

FINDING OF FACT NO. 20

On September 1, 1993, * * * (COMPANY O) invoiced Petitioner for maintenance of streetlights that Petitioner is required to maintain for the City of * * *, for which it is paid by the City. The auditor scheduled 50% of the charge in Exam 102 of the audit.

FINDING OF FACT NO. 21

On February 24, 1993, * * * (COMPANY P) invoiced Petitioner for maintenance of streetlights that Petitioner is required to maintain for the City of * * *, for which it is paid by the City. The auditor scheduled the charge in Exam 102 of the audit.

Petitioner contends that the COMPANY O and COMPANY P charges are for services that are resold to an exempt entity. Petitioner contracted for these services, then billed the cities, which paid Petitioner (Finding of Fact Nos. 20 and 21). These transactions qualify as sales for resale pursuant to Sec. 151.006(1), and should be deleted from the audit.

PETITIONER'S EIGHTH CONTENTION:

FINDING OF FACT NO. 22

On February 1, 1993, Petitioner contracted with * * * (COMPANY R) for general earthwork at Petitioner's LOCATION D. On May 27, 1993, COMPANY R invoiced Petitioner for labor and equipment. The equipment used was a specialized [*30] type of bulldozer that moved lignite fuel from stockpiles to silos and conveyors, that COMPANY R had to rent to perform the service. The auditor scheduled the equipment charge in Exam 203 of the audit.

Petitioner argues that the COMPANY R charge was a nontaxable service, not the rental of equipment with an operator.

Rule 3.294(c)(3) provides that in a "transaction in which tangible personal property is furnished with an operator, and the customer is charged separately for tangible personal property and operator," the presumption is that this is "the lease of tangible personal property and the separate furnishing of an operator." In such a case "the receipts from the separate charge for the tangible personal property are taxable," while the "separate charge for the operator will not be taxable unless a taxable service is being provided."

Petitioner argues that this rule is not applicable to the COMPANY R transaction because the essence of the transaction was the provision of a nontaxable service, and that the separation of the charges was only to justify the charge, not indicate two separate transactions. Petitioner has rebutted the rule's presumption by establishing that COMPANY [*31] R was providing a fuel loading service, and COMPANY R had to rent the bulldozer in order to do so, thereby providing a service, not the rental of equipment. The item should be deleted from the audit.

FINDING OF FACT NO. 23

On December 21, 1993, * * * (COMPANY S) invoiced Petitioner for the fabrication of a nozzle block for Petitioner's steam turbine engine. Petitioner accrued and remitted tax on this transaction.

Petitioner asserts that the COMPANY S charge was for the purchase of manufacturing equipment. Despite AHS' argument that this charge could have covered repairs, there is nothing in the record to indicate that this charge covered anything other than fabrication of the nozzle block, a transaction clearly exempt under Sec. 151.318. Petitioner should receive the appropriate credit for this transaction.

FINDING OF FACT NO. 24

In May 1994, Petitioner paid * * * (COMPANY T) for a dual valve position indicator for a LVDT (linear variable differential transformer) that monitors the boiler feed pump at a lignite-fired steam electric station. The auditor scheduled the purchase in Exam 203 of the audit.

Petitioner argues that its purchase from COMPANY T qualifies for the [*32] manufacturing exemption credit. The AHS responds that the valve was not used in or during the actual manufacture of electricity, and that, while monitoring equipment may be necessary to the plant operation, it is not necessary and essential to the manufacturing of the electricity.

In a letter dated September 2, 1994, (9409L1320E03) Eddie Washington of the Tax Policy Division stated that monitoring equipment that detects abnormal or excessive vibration to "allow the manufacturer to take corrective action to prevent damage caused by undetected excessive vibrations" is preventive maintenance equipment excluded from the manufacturing exemption by Sec. 151.318(c)(2). At the time of the COMPANY T charge, that provision excluded maintenance equipment from the manufacturing exemption. Here, Petitioner has not met its burden to prove by clear and convincing evidence that its purchase of the valve for what appears to be preventive maintenance equipment falls within the claimed exemption for tangible personal property used in the actual manufacturing process.

FINDING OF FACT NO. 25

On October 14, 1992, * * * (COMPANY U) invoiced Petitioner for a progress payment on a contract to provide [*33] the labor to install an Uninterruptible Power Source (UPS), a freestanding piece of equipment, at Petitioner's LOCATION E. COMPANY U did not provide the UPS. The auditor scheduled the total charge in Exam 103 of the audit, even though the invoice shows that sales tax was included in the charge.

Petitioner asserts that the COMPANY U charge is for nontaxable installation. COMPANY U did not provide the UPS. The item should be deleted from the audit because third-party installation of tangible personal property is not subject to tax. Comptroller Decision No. 30,191 (1993). In addition, Petitioner should receive credit for the tax paid in error.

FINDING OF FACT NO. 26

On December 31, 1992, * * * (COMPANY V) invoiced Petitioner for labor and materials to repair a vertical condensate pump at its LOCATION K station. \$ * * * of the invoiced amount was for inspection of the pump prior to the repairs. The auditor scheduled the labor portion of the charge in Exam 204 of the audit.

Petitioner contends that the labor portion of the COMPANY V repair specifically attributed in the invoice to the inspection of the pump prior to the repairs is not subject to sales tax. The invoice separately [*34] states the labor charge for

the inspection (Finding of Fact No. 26). However, Sec. 151.007(b) provides that the sales price of a taxable item includes "a service that is part of the sale." The inspection service was part of the pump repair, and, as a result, Petitioner should not receive credit for the tax it accrued on that charge.

In its Exceptions, Petitioner argues that the inspection is an unrelated stand-alone nontaxable service pursuant to Rule 3.357(a)(15). However, unlike stand-alone engineering services, this inspection service is related to the repair service and taxable as part of the sales price.

FINDING OF FACT NO. 27

On April 12, 1994, * * * (COMPANY W) invoiced Petitioner for 325 PCB warning labels permanently affixed to transformers while in transit to warn of the presence of toxin PCBs. The auditor scheduled the transaction in Exam 202 of the audit.

Petitioner argues that its purchase of the warning labels qualifies for the manufacturing exemption. As pointed out by the AHS, the public health regulation provision of Sec. 151.318(a)(10) was not added until the 1997 amendment, well after this purchase. At the time of the purchase the labels were not necessary [*35] or essential to the manufacturing process, and the transaction is not exempt.

In its Exceptions, Petitioner argues that the labels are like paint permanently affixed to exempt manufacturing equipment, which has long been treated by the Comptroller as qualifying for the phase-in credit. The letter relied on by Petitioner in its Exceptions, 9102L1078E02, supports Petitioner's argument, and the labels, therefore, qualify for the credit under Sec. 151.318(g).

FINDING OF FACT NO. 28

On October 5, 1994, * * * (COMPANY X) invoiced Petitioner for a cover nut gasket used on a condensate sampling system that is part of the wastewater treatment system of a nuclear reactor. This condensate system is essential for testing wastewater streams to assure safe and accurate neutralization of by-product contaminant wastes. The auditor scheduled the transaction in Exam 201 of the audit.

Petitioner argues that the purchase from COMPANY X qualifies for the manufacturing exemption. The condensate sampling system was necessary and essential to the pollution control process. Sec. 151.318(g) allowed a credit for the purchase of equipment and replacement parts necessary or essential to a "pollution control [*36] process." Inasmuch as the purchase of the gasket occurred in 1994 it qualified for the credit under Sec. 151.318(g).

FINDING OF FACT NO. 29

On April 1, 1993, Petitioner ordered a coupler from * * * (COMPANY Y) in * * *, Texas. The coupler was delivered to the LOCATION D outside * * *, Texas. Petitioner paid for the purchase with a Visa card. The invoice included 8.25% sales tax. The rate of sales tax in * * *, Texas, at the time of the transaction was 7.75%.

Petitioner argues that it should receive credit for the amount over the correct rate it was charged on the Visa bill. The credit should be allowed.

FINDING OF FACT NO. 30

On November 3, 1993, COMPANY S invoiced Petitioner for two progress payments on the purchase of a Honeywell generator monitoring system on a turbine at the LOCATION F. The system monitors temperature, pressure, and vibration on the turbine. Petitioner accrued and remitted tax on the transaction.

Petitioner asserts that the COMPANY S charges qualify for the manufacturing credit. As discussed above, at the time of the charge, monitoring equipment was not considered to qualify for the exemption. Again, Petitioner has not met its burden to prove by clear [*37] and convincing evidence that its purchase of the monitoring system falls within the claimed exemption for tangible personal property used in the actual manufacturing process.

PETITIONER'S NINTH CONTENTION:

FINDING OF FACT NO. 31

On November 10, 1992, * * * (COMPANY Z) invoiced Petitioner for remodeling of an existing underground cable and the moving of transformer pads. Specifically COMPANY Z cleared the right-of-way, dug a ditch to the lower cable, placed P.V.C. pipe around the existing cable, dug a splice pit, moved the transformer pads, removed and replaced the sidewalk, and backfilled all ditch and splice pits. This transaction was scheduled in Exam 203 of the audit.

Petitioner contends that the COMPANY Z charge was the same as the relocation of a cable plant that the Comptroller has determined is not taxable.

On November 20, 2000, the Tax Policy Division of the Comptroller issued a Taxability Letter (200111656L) regarding a change in Comptroller policy regarding the taxable treatment of replacement of poles in a transmission and distribution system. As stated in that letter, the new policy applied to make certain specific services nontaxable, specifically, in regard [*38] to the relocating of a cable plant, "moving the network of wires and equipment that carries the signals or current within the right of way or to a new right of way . . . generally involves moving the plant to a new structure/foundation." Petitioner argues that the COMPANY Z work was similar to this description in that it involved the relocation of the transformer pads.

Petitioner has not shown that the services provided by COMPANY Z come within the scope of the "new pole, new line" policy as set forth in the above-cited Taxability Response. There is no movement of the cable, only the pads. Inasmuch as there is no breakdown of the various elements of the project, some of which may qualify as new construction, the total project must be presumed to be taxable remodeling.

FINDING OF FACT NO. 32

In June 1992, Petitioner contracted with * * * (COMPANY AA) to construct remedy foundations for a portion of a transmission line, said foundations consisting of multiple reinforced concrete shafts drilled around the existing single shaft of 53 different steel poles. Each set of additional shafts was connected by a concrete collar. The auditor scheduled the payment under the contract for August [*39] 1992 in Exam 105 of the audit, for July 1992 in Exam 205 of the audit.

Petitioner asserts that the COMPANY AA construction was new construction. At the time of the charges in issue, Rule 3.357(a)(4) defined "new construction" as being "All new improvements to real property . . . includ(ing) the addition of new footage to an existing structure.

Comptroller Decision No. 32,894 (1996) held that a reinforced foundation qualifies as new construction. Comptroller Decision 36,488 (1997) held that the reconstruction of a portion of an existing concrete foundation where the new slab extended one foot above the existing foundation did not create additional footage because the same usable footage was available, only higher, and was not new construction. Based on the reasoning of these decisions, the remedy foundations are nontaxable new improvements to real property because they do add additional footage to the existing pole support foundation, not taxable remodeling of the existing steel poles, and the transaction should be deleted from the audit.

FINDING OF FACT NO. 33

On January 11, 1993, Petitioner contracted with COMPANY AA for an unspecified number of projects. Pursuant to that [*40] contract, on August 5, 1994, COMPANY AA invoiced Petitioner for reconductering an existing transmission line, "upgrading all wood h-frame structures," and replacing "all guyed wood swinging angle structures and dead end structures with guyed concrete pole structures." The auditor scheduled this transaction in Exam 104 of the audit. The AHS agreed to delete the portion of the charge for the replacement of the existing transmission line.

Petitioner contends that the COMPANY AA charges for upgrading the wood h-frame structures and replacing the guyed wood swinging angle structures and dead end structures was for a nontaxable service pursuant to the "New Line, New

Pole" policy discussed above. Specifically, Petitioner argues that the adding of wooden structures in an "X" formation to add support to existing poles falls within the policy guidelines, as stated in the Taxability Response, of "Adding crossarms to a pole or adding extensions to give the pole more height." However, adding support structures to existing poles is considerably different from adding crossarms or extensions to hold additional transmission lines, and more appropriately falls within the part of the policy declaring [*41] taxable the "bracing a pole with guy wires or c-trusses." Petitioner has not shown by any documentation that the purpose of the new bracing was to accommodate new, heavier cable. The item, as adjusted by agreement of the parties, should remain in the audit.

FINDING OF FACT NO. 34

Pursuant to a Work Authorization issued by Petitioner, * * * (COMPANY CC) invoiced Petitioner on October 20, 1993, for the reconductoring of 12,500 feet of a transmission line to provide an alternate feed for certain customers of Petitioner. The alternate line was installed parallel to the existing line. The auditor scheduled a portion of the payment of that invoice in Exam 203 of the audit.

Petitioner argues that COMPANY CC charge is nontaxable. The alternate line was installed parallel to the existing line and clearly falls within the "New Pole, New Line" policy declaring nontaxable the adding of "new lines . . . hung on poles or run through conduit to provide services to new customers or to replace or supplement existing lines with new, upgraded cable." The item should be deleted from the audit.

FINDING OF FACT NO. 35

On October 18, 1993, * * * (COMPANY BB) invoiced Petitioner for the replacing [*42] of nine spans of copper primary with ACSR (aluminum conductor steel reinforced) primary on its distribution facilities. The auditor scheduled this transaction in Exam 102 of the audit.

Petitioner asserts that the COMPANY BB charge is nontaxable under the "new pole, new line" policy. It would appear that the aluminum lines replaced the existing copper lines and would fall within the policy language regarding line replacement cited above. Accordingly, the transaction should be deleted from the audit.

PETITIONER'S TENTH CONTENTION:

FINDING OF FACT NO. 36

On April 14, 1993, * * * (COMPANY DD) invoiced Petitioner for a sizing screen for Petitioner's lignite crusher and pulverizer at its LOCATION G. This screen has a life expectancy of from four to six months from the time of purchase. Petitioner accrued and remitted tax on this purchase, and took the manufacturing credit on its franchise tax return. The auditor reassessed the credit amount in Exam 300 of this audit.

Petitioner contends that the COMPANY DD charge qualifies for the manufacturing exemption and the franchise tax credit. However, at the time of the transaction, Sec. 171.0021(a) only provided an exemption for equipment, [*43] and replacement parts or accessories with a useful life in excess of six months. Inasmuch as the life expectancy of the sizing screen did not exceed six months, the credit was correctly denied by the auditor.

FINDING OF FACT NO. 37

On March 30, 1993, * * * (COMPANY EE) invoiced Petitioner for a disconnect switch that is a component part of the electrical isolation system in the motor control center in the control room of the LOCATION A. The control panels in the control room contain electrical isolation equipment in case an accident occurs. The switch has a life expectancy in excess of six months. Petitioner accrued and remitted tax on this purchase, and took the manufacturing credit on its franchise tax return. The auditor reassessed the credit amount in Exam 300 of this audit.

Petitioner contends that COMPANY EE charge qualifies for the manufacturing credit. Based on the record, the control panel and its component parts, including the switch, would qualify for the credit.

FINDING OF FACT NO. 38

On October 17, 1991, * * * (COMPANY FF) invoiced Petitioner for electric sheathed resistance elements used in the HVAC heater at the LOCATION H. There is nothing in the record establishing [*44] that the HVAC heater is necessary and essential to the manufacturing process. Petitioner accrued and remitted tax on this purchase, and took the manufacturing credit on its franchise tax return. The auditor reassessed the credit amount in Exam 300 of this audit.

Petitioner asserts that the COMPANY FF charge qualifies for the manufacturing credit. However, Petitioner has not shown how the HVAC heater is necessary and essential to the manufacturing process (Finding of Fact No. 38). Accordingly, the treatment of the credit by the auditor was correct.

FINDING OF FACT NO. 39

On December 21, 1992, * * * (COMPANY GG) invoiced Petitioner for a circuit board that was a replacement part for one used in a turbine at the LOCATION C. Petitioner accrued and remitted tax on this purchase, and took the manufacturing credit on its franchise tax return. The auditor reassessed the credit amount in Exam 300 of this audit.

Petitioner contends that the COMPANY GG charge qualifies for the manufacturing credit. Based on the record, the circuit board would qualify for the credit.

FINDING OF FACT NO. 40

On February 26, 1993, * * * (COMPANY HH) invoiced Petitioner for Hancock high pressure line [*45] valves and check valves for the LOCATION J. The invoice indicates that \$ * * * of the charge was an expediting fee. Petitioner accrued and remitted tax on the total charge of this purchase, and took the manufacturing credit on its franchise tax return. The auditor reassessed the credit amount for the \$ * * * charge in Exam 300 of this audit.

Petitioner argues that the total charge by COMPANY HH, including the expediting fee, should qualify for the manufacturing credit.

Sec. 151.007(a)(3) provides that the sales price of a taxable item "means the total amount for which a taxable item is sold" without a deduction for the cost of "the transportation or installation of tangible personal property." Certainly, the expediting fee was part of the sales price of the valves and included in the tax base of the item. It logically follows that the credit should likewise be based on the sales price of the item, including the expediting fee. Petitioner should be allowed the credit on the total charge.

FINDING OF FACT NO. 41

On July 23, 1992, * * * (COMPANY JJ) invoiced Petitioner for min-wool insulation material used in boilers at the LOCATION K. The insulation has a useful life of from 4 [*46] to 6 years. Petitioner accrued and remitted tax on this purchase, and took the manufacturing credit on its franchise tax return. The auditor reassessed the credit amount in Exam 300 of this audit.

Petitioner argues that the COMPANY JJ charge should qualify for the manufacturing credit. Clearly, the insulation is a component of the boilers that are necessary and essential to the manufacturing process, and would qualify for the credit.

FINDING OF FACT NO. 42

On January 7, 1993, Petitioner paid COMPANY C for an auxiliary boiler control system. Petitioner accrued and remitted tax on this purchase, and took the manufacturing credit on its franchise tax return. The auditor reassessed the credit amount in Exam 300 of this audit.

Petitioner asserts that it correctly took a credit on its franchise tax return for its purchase from COMPANY C. As pointed out by the AHS, at the time of the purchase, January 1993, there was no exemption from tax for equipment having a life expectancy greater than six months, and there was no tax reduction credit allowed either. However, as noted

above, Sec. 171.0021 did allow a credit for tax paid on such equipment. Inasmuch as Petitioner could not have [*47] qualified for either the sales tax exemption or tax reduction, it is entitled to the franchise tax credit.

RECOMMENDATION:

The audit should be amended as follows:

1. Adjustments and credits as set forth in its Fourth Supplemental Response dated August 7, 2003;
2. Delete the COMPANY A transaction 64152 from Exam 105;
3. Delete the COMPANY B transaction 1823764 from Exam 103;
4. Revise Exam 204 to accurately reflect the population;
5. Allow the credit for the COMPANY A transaction 4088395 in Exam 204
6. Adjust the COMPANY K transaction 981290 in Exam 205;
7. Reduce the COMPANY L transactions by 20%, 1970130 in Exam 103, 2770606 and 3010005 in Exam 101;
8. Delete the COMPANY M transaction 4469561 from Exam 103;
9. Adjust the COMPANY N transaction 3140864 in Exam 104 to deduct the retainage amount;
10. Delete the COMPANY O transaction 2772822 and the COMPANY P transaction 1838619 from Exam 102;
11. Delete the COMPANY R transaction 2273009 from Exam 203;
12. Allow the credit for the COMPANY S transaction 3129573;
13. Delete the COMPANY U transaction 1376156 from Exam 103, and credit Petitioner for the tax paid in error;
14. Allow the credit for the COMPANY [*48] W transaction 3529537 in Exam 202;
15. Allow the credit for the COMPANY X transaction 054372 in Exam 201;
16. Allow the credit for the Visa transaction 2094836;
17. Delete the COMPANY AA transaction 1103236 from Exam 105, and 982060 from Exam 205;
18. Delete the COMPANY C transaction 2986121 from Exam 203;
19. Delete the COMPANY BB transaction 2989109 from Exam 102;
20. Delete the COMPANY EE transaction 101149 from Exam 300;
21. Delete the COMPANY GG transaction 86767 from Exam 300;
22. Grant the franchise credit for the entire charge for the COMPANY HH transaction 97196, and for COMPANY C transaction 87434;
23. Delete the COMPANY JJ transaction 57147 from Exam 300.

The revised audit liability should then be upheld in its entirety.

SIGNED January 4, 2006.

ROY G. SCUDDAY
Administrative Law Judge

HEARING NO. 40,607

ORDER OF THE COMPTROLLER

The above decision of the Administrative Law Judge is approved and adopted in all respects. This decision becomes final twenty-three (23) days from the date of this Order.

If a rehearing is desired, a Motion for Rehearing must be filed with the Administrative Law Judge no later than twenty-three (23) days after the [*49] date of this Order, and must state the grounds upon which the motion is based.

RENDERED and ISSUED January 4, 2006.

CAROLE KEETON STRAYHORN, Texas Comptroller

Legal Topics:

For related research and practice materials, see the following legal topics:

Energy & Utilities Law Electric Power Industry State Regulation General Overview Tax Law State & Local Taxes Administration & Proceedings Audits & Investigations Tax Law State & Local Taxes Use Tax General Overview

08/04/2006