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**06-27-2022**  
**Clerk of Circuit Court**  
**La Crosse County WI**  
**2021CV000050**

BY THE COURT:

DATE SIGNED: June 27, 2022

Electronically signed by Todd W. Bjerke  
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 3

LA CROSSE COUNTY

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WILLIAM BECKER,

Petitioner,

DECISION AND ORDER

vs.

WISCONSIN DEPARTMENT  
OF REVENUE,

CASE NO.: **21-CV-50**

Respondent.

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This case comes before the Court for review of a Ruling and Order of the Tax Appeals Commission (“the Commission”), entitled *William Becker v. Wisconsin Department of Revenue*, Docket Nos. 15-I-074 and 15-S-075. Petitioner (“Becker”) requests reversal of the Commission’s Order under Wis. Stat. § 227.57(5). In its order dated December 20, 2020, the Commission found that trailers Becker sold would not qualify for the § 77.54(5)(a)(4) sales tax exemption for out-of-state sales, and that he is therefore subject to assessments of \$34,747.22 for Individual Income Tax and \$526,262.62 for Sales and Use Tax.

The Department of Revenue (“the Department”) has promulgated a rule regarding Wis. Stat. § 77.54(5)(a)(4) that “[t]ruck bodies include semi-trailers.” Wis. Admin. Code TAX § 11.83(4)(a). The Wisconsin Supreme Court defined “truck bodies” to include semitrailers hauled by tractors. *Dep’t of Revenue v. Trudell Trailer Sales, Inc.*, 104 Wis. 2d 39, 41–42, 310 N.W.2d

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612 (Wis. 1981). The main question at issue before this Court is whether the semitrailer definition extends to other trailers that require the support of a motor vehicle to hold cargo. This Court finds that the trailers Becker sold are “truck bodies” for the sales tax exemption encoded in Wis. Stat. § 77.54(5)(a)(4). The ruling of the Tax Appeals Commission is therefore REVERSED.

## **FACTS**

Between January 1, 2008 and December 31, 2011, Becker sold “trailer type vehicles” to out-of-state residents who were not planning on using these trailers in Wisconsin, except for removing them from the state. Joint Stipulation of Facts, ¶ 2, Doc. 19 at 2. A single axle trailer has one set of wheels and a tandem axle trailer has two sets of wheels placed near each other. Both the single axel and tandem axel trailers require support from the towing vehicle via a connection to a tow hitch to carry their loads. Gooseneck trailers, rather than being connected by a hitch on the very back of the towing vehicle, have a neck that extends over the back of a truck and into the truck bed, placing more weight of the trailer over the axle of the towing vehicle. Becker sold all three types of trailers to out-of-state residents for use outside the state of Wisconsin.

In September and October 2013, The Wisconsin Department of Revenue issued assessments to Becker in the amount of \$526,262.62 for Sales and Use Tax (plus interest) and \$34,747.22 for Individual Income Tax. *Id.* at ¶ 5. Becker had not paid sales tax on the trailers he sold to out-of-state residents, and he argues that the trailer sales qualified for a sales tax exemption under Wis. Stat. § 77.54(5)(a)(4), which excludes sales tax on “truck bodies” being sold to non-residents of Wisconsin for out-of-state use. Becker filed a Petition for Redetermination with the Department, which the Department denied on February 11, 2015. Becker then appealed the denial to the Tax Appeals Commission, which ruled in favor of the Department in *William Becker v.*

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*Wisconsin Department of Revenue*, Docket Nos. 15-I-074, 15-S-075 (TAC Dec. 29, 2020). Becker has now moved this Court to review the decision of the Tax Appeals Commission.

## **STANDARD OF REVIEW**

Administrative decisions which adversely affect the substantial interests of any person are judicially reviewable. Wis. Stat. § 227.52. The court shall set aside or modify an agency action if it finds that the agency has “erroneously interpreted a provision of law and a correct interpretation compels a particular action.” Wis. Stat. § 227.57(5).

Issues of statutory interpretation are issues of law to be reviewed de novo. *Town of Wilson v. City of Sheboygan*, 2020 WI 16, ¶ 12, 390 Wis. 2d 266, 938 N.W.2d 493. The Court should give due weight to the specialized knowledge of an administrative agency in consideration of its arguments, but does not need to give any deference to the agency’s interpretation of the law. *Tetra Tech EC, Inc. v. Dep’t of Revenue*, 2018 WI 75, ¶ 108, 382 Wis. 2d 496, 914 N.W.2d 21; Wis. Stat. §§ 227.57(10)–(11). The party seeking a tax exemption has the burden “to prove its entitlement and any ambiguity is resolved in favor of taxation.” *Sw. Airlines Co. v. Dep’t of Revenue*, 2021 WI 54, ¶ 24, 397 Wis. 2d 431, 960 N.W.2d 384.

## **DECISION**

The parties in this case dispute whether trailers of the type sold by Becker are subject to a sales tax exemption in Wis. Stat. § 77.54(5)(a)(4). This exemption applies to “[m]otor vehicles or *truck bodies* sold to persons who are not residents of this state and who will not use such motor vehicles or trucks for which the truck bodies were made in this state otherwise than in the removal of such motor vehicles or trucks from this state.” Emphasis added. Becker sold single axle, tandem

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axle, and gooseneck trailers designed to be used together with a towing vehicle. *See* Joint Stipulation of Facts, ¶ 4, Doc. 19 at 3.

In 1981, the Wisconsin Supreme Court held that semitrailers are truck bodies for the purpose of Wis. Stat. § 77.54(5)(a)(4). “This court decides that ‘truck body,’ as used in the statute, includes a semitrailer and that is consistent with legislative intent.” *Dep’t of Revenue v. Trudell Trailer Sales, Inc.*, 104 Wis. 2d 39, 41–42, 310 N.W.2d 612 (Wis. 1981). The Department of Revenue has also indicated in a rule that “[t]ruck bodies include semi-trailers” but would not include a “‘slide-in’ camper.” Wis. Admin. Code TAX § 11.83(4)(a). A “slide-in” camper would include a “pop up” or other camper that rests entirely within the bed or above the cab of a truck. The Court of Appeals confirmed that “nonmotorized recreational campers, trailers and/or toppers” were excluded from the relevant sales tax exemption in *Spickler Enterprises, Ltd. v. Dep’t of Revenue*, 215 Wis. 2d 233, 572 N.W.2d 902 (Table), 1997 WL 721571, \*1 (Ct. App. 1997). This opinion would address the State’s stance at the time on recreational campers, but not on non-recreational trailers used to carry separate cargo.

Guidance from the Department of Revenue indicates that sales tax need not be remitted by a seller for semitrailers sold to nonresidents not using the property in Wisconsin, but should be for “trailers” similarly sold. Wis. Dep’t of Revenue, *Reporting Sales Tax on Sales of Used Motor Vehicles, Boats, Snowmobiles, RVs, Trailers, ATVs, and Aircraft* (Oct. 27, 2011) <https://www.revenue.wi.gov/Pages/TaxPro/2011/news-2011-111027.aspx>. Semitrailers are still included in the exemption as per the Wisconsin Supreme Court’s ruling in *Trudell*, 104 Wis. 2d at 41–42. The boundary between a trailer and semitrailer remains unclear.

The Petitioner in this case argues that his trailers are semitrailers and therefore also truck

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bodies under the interpretation of the Wisconsin Supreme Court. He points to former Wis. Stat. § 340.01(57) defining “semitrailer” to mean “a vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle, but does not include a mobile home.” After 1969, this definition was no longer included by reference in Wis. Stat. Chapter 77, although no subsequent definition has never been attached to the statute by our state legislators. Using the § 340.01(57) definition, the Petitioner differentiates his trailers from others that would entirely support their own weight without support from the towing vehicle. Petitioner calls these “full” trailers, with at least two axels fully supporting the trailer but without independent means of propulsion. Pet’r’s Reply Br., Doc. 34 at 3.

When the Supreme Court found that semitrailers are truck bodies, it did not adopt the definition of “semitrailer” that was referenced in the State’s tax code prior to 1969. Instead, it found that “[a] semitrailer is built to and does carry the cargo. Without it or some other unit to carry the load, a tractor, which is the power unit, serves little or no purpose.” *Trudell*, 104 Wis. 2d at 42. While the former Wis. Stat. § 340.01(57) would define a semitrailer based on whether it requires a motor vehicle to carry some of its weight, the Supreme Court defined a semitrailer based on how it completes the body of the vehicle that would pull it—the semitruck.

The Department argues that Becker’s trailers are different from the semitrailers the Supreme Court considered in its *Trudell* decision because the Trudell trailers were built for tractors that had a sole purpose of pulling trailers. In contrast, Becker’s trailers attach to trucks, SUVs, and, for the smallest of the trailers, even sedans. Becker argues that the trailers he sold would nonetheless become a single cohesive unit with the towing vehicle because they transform the

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purpose and function of the attached motor vehicle.

Neither party, in their arguments and briefs, seemed to address the definition of a “truck body” before formulating the definition of the semitrailer that would also be a truck body for tax purposes under Wis. Stat. § 77.54(5)(a)(4). In interpreting the term “truck body,” the Court must first give it its “common, ordinary, and accepted meaning, except that technical or specially-defined words or phrases are given their technical or special definitional meaning.” *Sw. Airlines* at ¶ 23. While the term “truck body” may be clear to some, it may not be clear to all, including legal professionals, who are perhaps less familiar with the realities of towing or hauling cargo or how vehicles can be adapted to accomplish certain tasks. “Truck body” is not contained in standard dictionaries as a compound word in and of itself. This Court will therefore interpret “truck body” as defined by those in the business of dealing with truck bodies.

Truck bodies typically make up the back half of a truck, resting on the truck’s own wheels. Truck bodies are often customizable and can adapt a truck to be more suitable for different purposes or to carry specific equipment or cargo. The Federal Motor Carrier Safety Administration issued guidance on the definition of “body” of trucks and trailers with respect to where lights and reflective devices need to be placed. This guidance indicates that “a truck or trailer body generally means the structure or fixture designed to contain, or support, the material or property to be transported on the vehicle.” Fed. Motor Carrier Safety Admin., *Guidance Q&A: Section § 393.11: Lamps and Reflective Devices – What Is the Definition of “Body” with Respect to Trucks and Trailers?* (1997). One company defines truck bodies as “assemblies that attach to a truck chassis for tasks such as towing, dumping, or product storage and delivery,” including “gooseneck platforms” as one type of custom truck body. GlobalSpec, *Truck Bodies Information*,

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ENGINEERING360, [https://www.globalspec.com/learnmore/material\\_handling\\_packaging/equipment/material\\_handling\\_equipment/truck\\_bodies](https://www.globalspec.com/learnmore/material_handling_packaging/equipment/material_handling_equipment/truck_bodies) (accessed June 17, 2022). *Law Insider* finds a definition for “truck body” in a series of contracts for sale of groups of investor notes, which in turn define it as “the outer shell of a motor vehicle that is mounted to a cab chassis and that covers that chassis from the back of the cab to the end of the body. A Vehicle shall not be a Truck Body if it also includes the cab.” *Law Insider, Truck Body Definition*, <https://www.lawinsider.com/dictionary/truck-body> (accessed June 20, 2022).

These definitions themselves are conflicting. A truck and its body can be modified in an infinitely imaginable set of ways for a variety of purposes. What these definitions do tend to agree on is that a truck body is attached to a truck’s chassis. A truck’s chassis is its main support structure underneath both the cab and the truck body. A trailer likewise is attached to the chassis of a vehicle, and it distributes some of the weight of the trailer over the chassis and axles of the towing vehicle. The trailer itself could also be described as a modification or extension of the vehicle’s chassis, as is the case in the *Trudell* decision. On its own, the trailer has no use and cannot support itself, but once attached to the vehicle, trailers become extensions of the “truck body” of the towing vehicle. The chassis of the trailers extend the chassis of the towing vehicle to allow it to carry more cargo. The “truck body” of the towing vehicle was thereby modified for the particular purpose of towing cargo.

Becker’s trailers are, in form and function, little different from the semitrailers discussed in *Trudell*, but at a different scale. Gooseneck trailers in particular extend over the chassis of the towing vehicle and attach within the truck bed, often with a fifth wheel hitch, just as a semitrailer would extend over and attach to the chassis of a semitruck with a larger fifth wheel hitch. It would

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not make sense to base the tax exemption for “truck bodies” simply on the size of the towing vehicle alone. It could be said that all vehicles serve little to no purpose without considering their cargo capacity, whether that cargo is people, consumer goods, or equipment. Truck bodies are modifications to these vehicles that make them able to carry particular quantities of cargo. That is true of the towing vehicle considered alone or as modified by an extended “truck body,” whether a trailer or semitrailer.

While ambiguity in a statute describing a tax exemption should be resolved in favor of taxability, *Sw. Airlines Co.* at ¶ 24, given the law clarifying Wis. Stat. § 77.54(5)(a)(4) found in *Trudell* (semitrailers are truck bodies) and *Spickler Enterprises* (campers and recreational trailers are not truck bodies), Becker’s reasoning behind his determination that his trailers were exempted is entirely reasonable. The discernable difference between a towed appendage that is a truck body and one that is not a truck body depends upon whether the appendage is used as a home or shelter or instead for temporarily extending the carrying capacity of the “tractor.”

The trailers at issue and sold by Becker were not recreational camping trailers but rather trailers meant to tow cargo. These trailers were not fashioned as campers or recreational trailers. Becker had no way of knowing when he sold the trailers that they were not deemed exempt from taxation. All he knew was that they were being sold to out-of-state nonresidents of Wisconsin and that they would modify the attached vehicle so it could be used to carry additional cargo. For these reasons, this Court finds that the agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action, that being that the trailers Becker sold were not subject to sales tax.



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**ORDER**

For the reasons set forth herein, William Becker's Petition is GRANTED and the Tax Appeals Commission's December 29, 2020 Ruling and Order is REVERSED.

This is a Final Order for purposes of Appeal.

Dated this 27<sup>th</sup> day of June, 2022, at La Crosse, Wisconsin.

BY THE COURT

[ELECTRONICALLY SIGNED]

Judge Todd W. Bjerke  
Circuit Court Judge, Branch 3

CC: Kathleen M. Quinn (William Becker) – via eNotice  
Matthew E. McLaughlin (William Becker) – via eNotice  
Brian Patrick Keenan (Wisconsin Department of Revenue) – via eNotice  
File