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TO: Jay Jetter, Tax Policy Specialist

FROM: Leslie Cushman, Deputy Director

SUBJECT: **YOGA – Back Taxes**

The tax treatment for Yoga studios has been an area of confusion for the Department and for Taxpayers.

1993 Law

In 1993 the legislature enacted a law that specifically imposed retail sales tax on "physical fitness services." The Department implemented the 1993 legislation through adoption of an Administrative Rule, WAC 458-20-183. The language in the rule regarding Yoga has provided the basis for taxpayer reporting. We have found that most, and perhaps all, Yoga studios have relied on the WAC rule to not collect retail sales tax.

2005 ETA

The Department provided additional instruction in this area on April 21, 2005, when it issued an Excise Tax Advisory (ETA 2023.08.183) addressing "physical fitness services." On June 17, 2005, the Department issued a letter to Taxpayers and attached the ETA to the letter. The letter was titled "Taxability of Pilates and Other Physical Fitness Services." The ETA provided one example of Yoga as "instructional lessons" and another example of Yoga as "physical fitness services."

Unclear Guidance

After reviewing the history of Department activity in this area, I have come to the conclusion that we have contributed to the confusion by our unclear guidance. The Department's current position is that Yoga can be either a physical fitness service or an instructional lesson. Unfortunately, this is an area where the educational material we prepared for taxpayers, to guide them in reporting taxes correctly, did not lead taxpayers to the result expected by the Department.

Past Tax Liability

Because of the Department's role in this, the Department will not be assessing taxes for periods prior to December 1, 2008. However, if a taxpayer has collected retail sales tax, we will not be allowing refunds of tax. Ultimately I believe this is the fairest approach.