

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION
Petitioner,	Appeal No. 06-0680
vs.	Account No. #####
BOARD OF EQUALIZATION OF DAVIS COUNTY, UTAH,	Tax Type: Property Tax/Locally Assessed
Respondent.	Tax Year: 2006
	Judge: Jensen

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Pam Hendrickson, Commission Chair
Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE, From Property Valuation Services
For Respondent: RESPONDENT REPRESENTATIVE 1, Davis County Assessor
RESPONDENT REPRESENTATIVE 2, Davis County Deputy Assessor
RESPONDENT REPRESENTATIVE 3, From the Davis County Assessor's Office

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on July 31, 2007. On the basis of the evidence and testimony presented at the hearing, the Tax Commission makes its:

FINDINGS OF FACT

1. The tax in question is property tax for tax year 2006.
2. The applicable lien date for the tax year at issue is January 1, 2006.

3. The subject property consists of eleven pieces of (X) imaging equipment of four types: Five ultrasound machines, two catherization lab systems, two gamma cameras, and four mobile c-arm machines.

4. The parties differ on the proper classification and depreciation of the subject property in accordance with Utah Admin. Rule R884-24P-33.

5. Petitioner maintains that the subject property should be classified and depreciated under the schedule for "Class 2 – Computer Integrated Machinery."

6. The Davis County Assessor maintains that the subject property should be classified and depreciated under the schedule for "Class 7 – Medical and Dental Equipment."

7. The ultrasound machines at issue were sold as single units under an invoice that did not break the computer out separately from the ultrasound machines.

8. The ultrasound machines cannot operate without their computers and the computers cannot perform functions outside the ultrasound machines.

9. The ultrasound machines can perform multiple functions and are controlled by programmable central processing units.

10. The total cost of the ultrasound machines is depreciated as a unit for income tax purposes.

11. Because the limits to the capabilities of the ultrasound machines are set by the resolution of the machines, the capabilities of the ultrasound machines cannot be expanded by substituting a more complex computer for the original.

12. The catherization lab systems at issue were sold as single units under an invoice that did not break the computer out separately from the catherization lab systems.

13. The catherization lab systems cannot operate without their computers and the computers cannot perform functions outside the catherization lab systems.

14. The catherization lab systems can perform multiple functions and are controlled by programmable central processing units.

15. The total cost of the catherization lab systems is depreciated as a unit for income tax purposes.

16. Because the limits to the capabilities of the catherization lab systems are set by the resolution of the machines, the capabilities of the catherization lab systems cannot be expanded by substituting a more complex computer for the original.

17. The gamma cameras at issue were sold as single units under an invoice that did not break the computer out separately from the gamma cameras.

18. The gamma cameras cannot operate without their computers and the computers cannot perform functions outside the gamma cameras.

19. The gamma cameras can perform multiple functions and are controlled by programmable central processing units.

20. The total cost of the gamma cameras is depreciated as a unit for income tax purposes.

21. Because the limits to the capabilities of the gamma cameras are set by the resolution of the camera portions of the units, the capabilities of the gamma cameras cannot be expanded by substituting a more complex computer for the original.

22. The mobile c-arm machines at issue were sold as single units under an invoice that did not break the computer out separately from the mobile c-arm machines.

23. The mobile c-arm machines cannot operate without their computers and the computers cannot perform functions outside the mobile c-arm machines.

24. The mobile c-arm machines can perform multiple functions and are controlled by programmable central processing units.

25. The total cost of the mobile c-arm machines is depreciated as a unit for income tax purposes.

26. Because the limits to the capabilities of the mobile c-arm machines are set by the resolution of the machines, the capabilities of the mobile c-arm machines cannot be expanded by substituting a more complex computer for the original.

27. At the formal hearing, the Davis County Assessor argued that if the subject property were classified as “Class 2 – Computer Integrated Machinery,” the software to operate the subject property would have to be moved from its present classification in “Class 1 – Short Life Property” to “Class 2 – Computer Integrated Machinery.” The Davis County Assessor did not raise this issue before the formal hearing.

APPLICABLE LAW

1. Utah Code Ann. §59-2-1005 provides that a taxpayer may appeal the value at which its personal property is assessed to the county legislative body, which shall hear the taxpayer’s appeal and issue a written decision. Subsection (4) provides that “[i]f any taxpayer is dissatisfied with a decision rendered . . . by the county legislative body, the taxpayer may file an appeal with the commission in accordance with Section 59-2-1006.”

2. Utah Admin. Rule R884-24P-33(6) provided that for 2006 assessment purposes, personal property is classified for valuation purposes based upon its expected economic life, as follows:

- (6)
- (a) Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.
- (i) Examples of property in the class include:
- (A) barricades/warning signs;
 - (B) library materials;
 - (C) patterns, jigs and dies;
 - (D) pots, pans, and utensils;
 - (E) canned computer software;
 - (F) hotel linen;
 - (G) wood and pallets;
 - (H) video tapes, compact discs, and DVDs; and
 - (I) uniforms.
- (ii) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.
- (iii) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:
- (A) retail price of the canned computer software;
 - (B) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or
 - (C) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.
- (iv) Video tapes, compact discs, and DVDs are valued at \$15.00 per tape or disc for the first year and \$3.00 per tape or disc thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
05	67%
04	41%
03 and prior	10%

- (b) Class 2 - Computer Integrated Machinery.
- (i) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:
- (A) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12

property and the machine as Class 8 property.

(B) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

(C) The machine can perform multiple functions and is controlled by a programmable central processing unit.

(D) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

(E) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

(ii) Examples of property in this class include:

(A) CNC mills;

(B) CNC lathes;

(C) MRI equipment;

(D) CAT scanners; and

(E) mammography units.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
05	83%
04	73%
03	61%
02	53%
01	44%
00	36%
99	26%
98 and prior	16%

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(f) Class 7 - Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.

(i) Examples of property in this class include:

(A) medical and dental equipment and instruments;

(B) exam tables and chairs;

(C) high-tech hospital equipment;

(D) microscopes; and

(E) optical equipment.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
05	87%
04	85%
03	78%
02	70%
01	62%
00	54%
99	45%
98	36%
97	28%
96	19%
95 and prior	10%

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CONCLUSIONS OF LAW

1. The ultrasound machines at issue in this case should be classified and depreciated under the schedule for “Class 2 – Computer Integrated Machinery.”
2. The catherization lab systems at issue in this case should be classified and depreciated under the schedule for “Class 2 – Computer Integrated Machinery.”
3. The gamma cameras at issue in this case should be classified and depreciated under the schedule for “Class 2 – Computer Integrated Machinery.”
4. The mobile c-arm machines at issue in this case should be classified and depreciated under the schedule for “Class 2 – Computer Integrated Machinery.”
5. Because the classification of software was not included on any notice of appeal or otherwise raised before the formal hearing, it is not an issue that is before the Commission as part of this appeal. Because software classification is not part of this appeal, there is no basis to change classification of software for the subject property from the classification as claimed by Petitioner on its 2006 tax documents.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the subject property should be classified and depreciated under the schedule for “Class 2 – Computer Integrated Machinery” and that software for the subject property should remain as now categorized. It is so ordered.

DATED this _____ day of _____, 2007.

Clinton Jensen, Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION:

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D’Arcy Dixon Pignanelli
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. 63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §§59-1-601 and 63-46b-13 et. seq.