

11-57

TAX TYPE: PERSONAL PROPERTY TAX

TAX YEARS: 2007, 2008, 2009 and 2010

DATE SIGNED: 6-19-2012

COMMISSIONERS: B. JOHNSON, D. DIXON, M. CRAGUN

EXCUSED: M. JOHNSON

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BEFORE THE UTAH STATE TAX COMMISSION

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TAXPAYER,  Petitioner,  vs.  BOARD OF EQUALIZATION OF DAVIS COUNTY, STATE OF UTAH,  Respondent.	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b>  Appeal No. 11-57  Account No. ##### Tax Type: Personal Property Tax Year: 2007, 2008, 2009 and 2010  Judge: Marshall
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**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:**

Michael J. Cragun, Commissioner

Jan Marshall, Administrative Law Judge

**Appearances:**

For Petitioner: TAXPAYER

For Respondent: RESPONDENT-1, Davis County Assessor's Office  
RESPONDENT-2, Personal Property Manager, Property Tax  
Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on May 22, 2012, in accordance with Utah Code Ann. §59-1-501 and §63G-4-201 et seq. Petitioner ("Taxpayer") brings this appeal regarding the valuations for personal property that resulted from a personal property audit for the years 2007 and 2008, and personal property valuations for 2009

and 2010. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Taxpayer did not submit a signed statement<sup>1</sup> for the 2007, 2009, or 2010 tax years. He submitted a “2008 Schedule B” that listed a total taxable value of property of \$\$\$\$\$. (Exhibit R-1).
2. The County’s market value for the tax years at issue are \$\$\$\$\$ for the 2007 tax year; \$\$\$\$\$ for the 2008 tax year; \$\$\$\$\$ for the 2009 tax year; and \$\$\$\$\$ for the 2010 tax year.
3. The County contracted with the Property Tax Division of the Utah State Tax Commission (“Division”) to complete a personal property audit for the 2007 and 2008 tax years. The Division issued its audit detail on May 11, 2010. The audit concluded a total cost of \$\$\$\$\$ and market value of \$\$\$\$\$ for the 2007 tax year and a total cost of \$\$\$\$\$ and market value of \$\$\$\$\$ for the 2008 tax year. (Exhibit R-1).
4. The audit information for 2007 and 2008 was taken from the Taxpayer’s 2008 Schedule B and depreciation schedule from his income tax returns, with the exception of the NAME-1 Equipment. (Exhibit R-1).
5. The NAME-1 equipment was acquired in 2006 at a cost of \$\$\$\$\$. The Taxpayer stated that included approximately \$\$\$\$\$ in nozzles that are required to use the machine.
6. In November of 2008, NAME-1 filed for bankruptcy. In a letter to owners of the NAME-1 equipment indicating that new nozzles will no longer be available, they will no longer be servicing the machine, and offering \$\$\$\$\$ as a trade-in to apply towards the purchase of a different piece of equipment. (Exhibit R-1).
7. For the 2009 and 2010 tax years, the County valued the NAME-1 equipment at residual value.
8. The difference in market value from the audit and the County’s value for the 2008 tax year is the value of NAME-2 equipment.

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<sup>1</sup> See Utah Code Ann. §59-2-306.

9. After the completion of the audit, the County learned that the NAME-2 equipment, had been written off by NAME-2 and was given to the Taxpayer. (Exhibit R-1).
10. NAME-2 gave the equipment to the Taxpayer in 2007 with a total acquisition cost of \$\$\$\$\$. (Exhibit R-1).
11. Taxpayer had an appraisal done on his medical and office equipment that determined a value of \$\$\$\$\$ as of October 21, 2010. (Exhibit R-2).
12. Taxpayer argued that the NAME-1 equipment became worthless in 2008 and the value should be reduced accordingly for 2008, 2009, and 2010. However, he acknowledged that as of the January 1, 2008 lien date, the NAME-1 equipment was in service at his office.

#### APPLICABLE LAW

Utah Code Ann. §59-2-301<sup>2</sup> provides for the assessment of property, as follows:

The county assessor shall assess all property located within the county which is not required by law to be assessed by the commission.

Personal property is assessed pursuant to Utah Code Ann. §59-2-306, which provides as follows, in pertinent part:

- (1) The county assessor may request a signed statement from any person setting forth all the real and personal property assessable by the assessor which is owned, possessed, managed, or under the control of the person at 12 o'clock noon on January 1.
- (2) The signed statement shall include the following:
  - (a) All property belonging to, claimed by, or in the possession, control, or management of the person, any firm of which the person is a member, or any corporation of which the person is president, secretary, cashier, or managing agent...

The Commission has adopted Rule R884-24P-33 regarding the assessment of tangible personal property. This rule provides percent good tables to determine a value based on different classes of tangible personal property. Value is calculated by applying the percent good factor against the acquisition cost of the property. For the 2007 and 2008 tax years,<sup>3</sup> Rule 33 provided in pertinent part as follows:

- (1) Definitions.

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<sup>2</sup> The Commission cites to provisions of the Utah Code for 2007, unless otherwise noted.

<sup>3</sup> The definitions found in Rule 33(1) were substantively amended for the 2009 tax year because they were codified in the Utah Code at UCA §59-2-108 (effective January 1, 2009).

- (a) "Acquisition cost" means all costs required to put an item into service, including purchase price, freight and shipping costs; installation, engineering, erection or assembly costs; and excise and sales taxes.
  - (i) Indirect costs such as debugging, licensing fees and permits, insurance or security are not included in the acquisition cost.
  - (ii) Acquisition cost may correspond to the cost new for new property, or cost used for used property. ..
- (e) "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.
  - (i) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property...
- (2) Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation...
  - (c) County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.
  - (d) A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value...
- (6) All taxable personal property, other than personal property subject to an age-based uniform fee under Section 59-2-405.1 or 59-2-405.2, is classified by expected economic life as follows...
  - (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.
    - (ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
06	95%
05	86%
04	84%
03	77%
02	69%
01	59%

00	50%
99	41%
98	30%
97	21%
96 and prior	10%

Utah Code Ann. §59-2-1005 provides that a property owner may appeal the value at which its personal property is assessed to the county legislative body, which shall hear the property owner’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.”

CONCLUSIONS OF LAW

At issue is whether the NAME-1 equipment was valued correctly. The remaining personal property was taken from information reported by the Taxpayer either on his statement for the 2008 tax year or from his depreciation schedules on his individual income tax returns. The County determined the value of all of the personal property, including the NAME-1 machine, based on the acquisition costs provided by the Taxpayer, in accordance with Administrative Rule R884-24P-33.

Taxpayer is requesting that the personal property assessments for the years at issue be reduced based on an appraisal he obtained that determined a value of \$\$\$\$ as of October 12, 2010; as well as his argument that the NAME-1 machine was worthless from 2008 forward. Subsection (2)(d) of Rule R884-24P-33 provides that a party may request a deviation from the value established by the schedule if the use of the schedule does not result in the fair market value of the property. The Taxpayer has failed to establish a fair market value for the personal property for 2007 through 2009 that is different from the schedules. Though the Taxpayer provided an appraisal for the 2010 tax year, the value was effective as of October 12, 2010, rather than the January 1, 2010 lien date.

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Jan Marshall  
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission sustains the County's market values of \$\$\$\$ for the 2007 tax year; \$\$\$\$ for the 2008 tax year; \$\$\$\$ for the 2009 tax year; and \$\$\$\$ for the 2010 tax year. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

R. Bruce Johnson  
Commission Chair

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
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. §63G-4-302. 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 et seq. and §63G-4-401 et seq.