

07-1487
LOCALLY ASSESSED COMMERCIAL PROPERTY
SIGNED: 10-06-08
COMMISSIONERS: P. HENDRICKSON, B. JOHNSON, M. JOHNSON, D. DIXON
GUIDING DECISION
KEY: TAX EXEMPTION, FARM MACHINERY AND EQUIPMENT

BEFORE THE UTAH STATE TAX COMMISSION

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| <p>PETITIONER</p> <p>Petitioner,</p> <p>vs.</p> <p>BOARD OF EQUALIZATION OF RURAL COUNTY, UTAH,</p> <p>Respondent.</p> | <p>INITIAL HEARING ORDER</p> <p>Appeal No. 07-1487</p> <p>Tax Type: Property Tax/Locally Assessed Tax Year: 2007</p> <p>Judge: Jensen</p> |
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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 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 order, specifying the commercial information that the taxpayer wants protected.

Presiding:

Marc Johnson, Commissioner
Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REP
For Respondent: RESPONDENT REP 1, RURAL COUNTY Assessor
RESPONDENT REP 2, RURAL COUNTY Auditor
RESPONDENT REP 3, RURAL COUNTY Assessor Office
RESPONDENT REP 4, Appraiser
RESPONDENT REP 5, Tax Commission County Representative

STATEMENT OF THE CASE

The above-named Petitioner (the “Taxpayer”) brings this appeal from the decision of the Board of Equalization (the “Board”) of RURAL COUNTY. This matter was argued in an Initial Hearing on May 7, 2008. The Taxpayer is appealing taxation of the subject property for property tax purposes. The lien date at issue in this matter is January 1, 2007.

APPLICABLE LAW

All tangible taxable property shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provide by law. (Utah Code Ann. Sec. 59-2-103 (1).)

Farm machinery and equipment is exempt from taxation under Utah law. (Utah Code Ann. 59-2-1101(3)(f).)

Utah Code Ann. §59-2-102(13) defines “Farm machinery and equipment” as follows:

“Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

Utah Administrative Rule R884-24P-44 provides additional guidance regarding the property tax exemption for farm machinery and equipment under Sections 59-2-102 and 59-2-1101:

- A. The use of the machinery and equipment, whether by the claimant or a lessee, shall determine the exemption.
 - 1. For purposes of this rule, the term owner includes a purchaser under an installment purchase contract or capitalized lease where ownership passes to the purchaser at the end of the contract without the exercise of an option on behalf of the purchaser or seller.
- B. Farm machinery and equipment is used primarily for agricultural purposes if it is used primarily for the production or harvesting of agricultural products.
- C. The following machinery and equipment is used primarily for the production or harvesting of agricultural products:
 - 1. Machinery and equipment used on the farm for storage, cooling, or freezing of fruits or vegetables;
 - 2. Except as provided in C.3., machinery and equipment used in fruit or vegetable growing operations if the machinery and equipment does not physically alter the fruit or vegetables; and
 - 3. Machinery and equipment that physically alters the form of fruits or vegetables if the operations performed by the machinery or equipment are reasonable and necessary in the preparation of the fruit or vegetables for wholesale marketing.
- D. Machinery and equipment used for processing of agricultural products are not exempt.

DISCUSSION

The subject property is machinery used to turn alfalfa into hay cubes approximately one and one half inches in width, length, and height. The machinery is considered personal property and is housed in a building. At one time, farmers made hay cubes with a piece of farm equipment that would go into a field and make cubes much like a bailer would bail hay. In more recent years, most hay cubing is done indoors to gain better moisture control and assure a more

marketable hay product. None of the cubes made by the machinery at issue in this case are made in the field.

The Taxpayer (WORDS REMOVED) puts the alfalfa through a process including compression into the cubes that represent the finished product. The Taxpayer's hay-cubing machinery adds bentonite to act as a binding agent to hold the cubes together until the cubes are used for animal feed. The parties agree that the binding materials for hay cubes have no use other than as something to facilitate the cubing process.

The Taxpayer initially prepared tax statements not listing the subject property as taxable personal property. The Taxpayer's representative explained that the basis for this listing was an understanding that the subject property was exempt as farm machinery and equipment. Although the County locally assesses the subject property, the County contracts with the Property Tax Division of the Utah State Tax Commission (the "Division") to audit personal property tax returns. The Division audited the Taxpayer's return for the 2007 tax year, finding the hay-cubing machinery to be not exempt as farm machinery and equipment. On that basis, the Taxpayer filed returns listing the equipment as taxable non-farm equipment for both 2007 and 2008, but appeals the determination by the Division that the subject property was taxable processing equipment rather than tax-exempt agricultural equipment.

Reviewing the evidence presented, it is clear that the determination of whether the subject property is exempt from property tax will depend on whether it is "used primarily for the production or harvesting of agricultural products." If so, it will be exempt from property tax. If the subject property is better characterized as equipment for the "processing of agricultural products," it will be subject to property tax.

In the case of hay cubing equipment it is evident that by the time alfalfa makes its way to the subject property, the growing and harvesting have already taken place. The Commission recognizes that hay bailing equipment has been considered a part of production and harvesting, but notes that these operations take place in the field and are thus more closely tied to the production and harvesting process. While hay cubing is in some ways analogous to hay bailing, the cubing takes place as off-site processing that is a step removed from the field. On that basis, the Commission finds the subject property taxable as processing equipment.

DECISION AND ORDER

On the basis of the foregoing, the Tax Commission finds that the subject property is taxable as processing equipment for the 2007 tax year. It is so ordered.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file a written request within thirty (30) days of the date of this decision to proceed to a

Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.
DATED this _____ day of _____, 2008.

Clinton Jensen
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The agency has reviewed this case and the undersigned concur in this decision.
DATED this _____ day of _____, 2008.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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