

87-1633
LOCALLY ASSESSED COMMERCIAL PROPERTY
SIGNED 02-23-1988
COMMISSIONERS: R. HANSEN, J. PACHECO, G.B.DAVIS
ABSENT: R.TEW
GUIDING DECISION
KEY: TAX EXEMPTION, FARM EQUIPMENT AND MACHINERY

BEFORE THE STATE TAX COMMISSION OF UTAH

PETITIONER,

Petitioner)
:

v.)
:

COUNTY BOARD OF EQUALIZATION)
RURAL COUNTY)
STATE OF UTAH)

INFORMAL DECISION

Appeal No. 87 1633

Respondent.

STATEMENT OF CASE

This matter came before the Utah State Tax Commission for an informal hearing on January 19, 1988. RESPONDENT REP 1, heard the matter for the Tax Commission.

PETITIONER REP 1 and PETITIONER REP 2 appearing representing Petitioner. RESPONDENT REP 2 appeared representing the Respondent. NAME 1, NAME 2, NAME 3, and NAME 4 were also present at the hearing.

The Petitioner is an ENTITY consisting of approximately GROUP and GROUP 1

Appeal No. 87-1633

The Petitioner purchases at wholesale and sells to GROUP and the general public with a markup. Periodically, rebates are given to GROUP and GROUP 1 who make regular purchases from the ENTITY. Those rebates are the excess profits after operational expenses have been met. In conjunction with ENTITY EFFORT, the Petitioner has instituted two operations which are the subject of this appeal. Those operations are the feed mill and the hatchery.

The feed mill mixes the various grains and feed in proper proportions and then market that mixed feed to the COMMUNITY and the GROUPS of the ENTITY.

The hatchery consists of ANIMAL which lay eggs. The eggs are then incubated until they hatch. The ANIMAL 2 are then sold to the GROUP. If there are any ANIMAL 2 remaining after the GROUPS have purchased the necessary ANIMAL 2 for their respective operations, those are sold to the COMMUNITY. The testimony however, would indicate that few if any ANIMAL 2 are remaining after the GROUPS fill their needs. The Petitioners argue that the two operations in question are exempt from ad valorem property tax under the Utah State Constitution Article III, Section 2 subparagraph 2-e which provide that "farm equipment and farm machinery" are exempted from property tax.

The Respondent argues that since the operation is used in a commercial enterprise, Petitioner is not entitled to the farm machinery and equipment exemption under Article III, Section 2, Utah State Constitution. The Respondent further argued that the exemption is traditionally applied to the

Appeal No. 87-1633

production aspect of agriculture and does not apply to the processing portion of agriculture. This distinction is neither supported by statute or rule. However, it has been uniformly applied by the Utah State Tax Commission, Personal Property Tax Division as well as the various counties.

DISCUSSION

The Constitution of the State of Utah provides in Article XIII, Section 2 subparagraph 2-e that "the following are property tax exemption: . . . (e) farm equipment and farm machinery as defined by statute." The statutory provisions which define farm machinery are §§ 59-2-1101(f) and 59-2-102(3). Section 59-2-1101(f) provides that the following Property is exempt from taxation "farm equipment and machinery." Section 59-2-102(3) defines "farm machinery."

Subparagraph 3 "farm machinery and equipment", "for purposes of the exemption provided in subsection 59-2-1101(f) means tractors, milking equipment, 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 equipment used primarily for agricultural purposes but does not include vehicles required to be registered with the department of motor vehicles, vehicles or

In the application of the definition of farm machinery and equipment, the Utah State Tax Commission, Property Tax Division in its role of assisting the various counties to

Appeal No. 87-1633

implement the exemption has distinguished between agricultural production and agricultural processing in the chain of events from the farmer to the consumer. In other words those processes that involve the planting, the growing, the harvesting, and the equipment used therein, have been exempted under the constitution. However, those processes which take place after the harvesting and through the ultimate consumption have not been exempt. An analogy would be the dairy farmers where the feeding of the cows, the milking of the cows, and the equipment used therein are exempt from ad valorem property tax. However, once the milk is received by the milk processing plant to process for ultimate consumption, the equipment used in the processing is not exempt. In conjunction with this distinction the Respondent argues that when the equipment is used in a "commercial" enterprise, it would no longer be able to enjoy the tax exempt status of "machinery or equipment used primarily for agricultural purposes." The Tax Commission finds this distinction unpersuasive. It is clear that farmers are in a commercial enterprise, i.e., raising crops and livestock in the hopes of receiving a profit.

The Tax Commission does find that the distinction between production and processing to be the appropriate line whereby, the exemption should be applied or not applied.

It is a relatively easy task to determine which end or in which area a certain process falls. For example, it is

clear that the incubation of the eggs, the raising of the ANIMAL 2 through the sale to the processing plant is within the

-4-

Appeal No. 87-1633

production aspect. Therefore, the Tax Commission finds that the hatchery equipment is in the production stage and, therefore, entitled to the exemption for farm machinery and equipment.

Regarding the mill, the process that was brought out in the hearing would indicate that the various feeds are purchased by the ENTITY then mixed in the appropriate proportions and sold to anyone who wishes to purchase them. The sale of the feed is not restricted or entirely consumed by the GROUPS of the ENTITY as they are ANIMAL 2. It is equally clear that processing of the feed is no longer part of the production stage, but it is in the processing stage for the use of the ultimate consumer, be it the farmer or the family who raises a cow, goat or chicken. Therefore, the Tax commission declines to extend the exemption of Article XIII, Section 2 to the mill equipment owned by the Petitioner.

DECISION AND ORDER

Based upon the foregoing, it is the Decision and Order of the Utah State Tax Commission that the request of the Petitioner be granted in part. i.e., that equipment associated

Appeal No. 87-1633

with the hatchery is hereby exempt. However, that equipment associated with the mill shall not be exempt.

DATED this ____ day of _____, 1988.

BY ORDER OF THE STATE TAX COMMISSION OF UTAH

R.H. Hansen
Chairman

Roger O. Tew
Commissioner

Joe B Pacheco
Commissioner

G. Blaine Davis
Commissioner

NOTICE: You have 30 days after the date on the Mailing Certificate to request a Formal Hearing

JEH/lgh/5449w

