

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

MAURICE B. CAMERON, JR.,)	DOCKET NO.: PT-1998-14
)	
Appellant,)	
)	
-vs-)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF JUSTICE)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,)	<u>FOR JUDICIAL REVIEW</u>
)	
Respondent.)	

The above-entitled appeal was heard on October 8, 1999, in the City of Great Falls, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was duly given as required by law.

The taxpayer, Maurice B. Cameron, Jr., presented testimony in support of the appeal. The Department of Justice (DOJ), represented by Training Unit Supervisor Nancy L. Hargrove and Attorney Brenda Nordlund, presented testimony in opposition to the appeal. Testimony was presented and exhibits were received. The Board then took the appeal under advisement; and the Board, having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FACTUAL BACKGROUND

1. Due, proper and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

1995 Cadillac Sedan Deville, Vehicle
Identification Number 1G6KD52B7SU280975

3. For the 1998 tax year, the DOJ appraised the subject automobile at a value of \$20,242.

4. The taxpayer appealed to the Cascade County Tax Appeal Board on August 10, 1998, requesting a reduction in value to \$14,900, stating:

Your (sic) taxing me on personal property well in excess of actual price and market value. This isn't even close to fair. I can't see how Mt voters ever let this law slide by.

5. In its September 8, 1998 decision, the county board disapproved the taxpayer's requested value of \$14,900, stating:

After reviewing the exhibits and hearing testimony, the Board feels the value of \$20,242 placed upon the 1995 Cadillac Sedan DeVille for tax purposes is fair and equitable based upon the figures submitted by both parties. Senate Bill 57 requires all counties to abide by the formula of MSRP (Manufacturer's Suggested Retail Price) less the depreciation set by MCA 61-3-503 (2) (a) to arrive at the

taxable value. Applying 2%, you arrive at the amount of tax owed. This appeal is disapproved.

6. The taxpayer appealed that decision to this Board on September 22, 1998, stating:

I feel the board wasn't prepare (sic) to give me a fair decision. Also I feel that I was discriminated, on, by the board.

TAXPAYER'S CONTENTIONS

Mr. Cameron testified that Senate Bill 57, passed by the 1997 legislature, had put him in a "discriminatory situation" because "the vehicles in question being taxed start from three-quarter ton on down. That more or less includes everybody that drives except truckers." The reason he believed he was being discriminated against was "because trucks weren't being taxed as we were being taxed."

Mr. Cameron contended that the appraised value on his vehicle was unrealistic. He testified, "So here I am with a piece of property that you say is worth so much, but in all reality, if I go to try to sell this piece of property, I'm going to get a lot less. I'd be lucky to get low book, that's \$14,900, for it if I wanted to sell it to a dealer." Mr. Cameron had determined his requested value of \$14,900 by using the 1995 National Automobile Dealers' Association (NADA) book. He testified that he had used this value because "it was the lowest value" but a more realistic

figure would be the trade-in value of \$16,550. He did agree that the appraised value of \$20,242 was in line with Senate Bill 57. Following conversations with car dealers and members of the public regarding this legislation, Mr. Cameron came to the conclusion that the public was not aware that Senate Bill 57 had resulted in a tax increase. He believed that Senate Bill 57 resulted in his car being valued at "\$60 to \$70 more than what was due."

Mr. Cameron requested that, in addition to the requested reduction in the value of his vehicle, he be compensated for the two days he had spent in the appeals process at the rate of \$50 a day or a total of \$100.

DOJ'S CONTENTIONS

DOJ's Exhibit A is a seven-page exhibit consisting primarily of copies of screens from the state motor vehicle system. Page 1, entitled "Motor Vehicle System Normal Inquiry," contains the basic information about the subject vehicle, including the title number, the vehicle identification number (VIN), and the description of the vehicle as a 1995 Cadillac Deville, green in color. Page 2 is a breakdown of the VIN from a software package called VINassist. Each digit in the 17-digit VIN gives pertinent information about the particular vehicle. The VIN of the

subject vehicle is 1G6KD52B7SU280975. In summary, the digits of this VIN provide the following information:

<u>Digit</u>	<u>Description</u>	<u>Meaning</u>
1	Country of origin	United States
G	Manufacturer	General Motors
6	Make	Cadillac
KD	Line	Deville
5	Body style	4-dr. sedan
2	Restraint system	Manual/air bags
B	Engine	4.9L V8 MFI
7	Check digit	Check digit valid
S	Year	1995
U	Assembly plant	Hamtramck, MI
280975	Sequence number	In range

Page 3 of Exhibit A is entitled "Motor Vehicle System MSRP/GCW/Manuf GVW Inquiry." This screen contains data to correlate the VIN to the manufacturer's suggested retail price (MSRP). After the year, make, model and VIN of the subject vehicle were entered into the system, the screen showed the MSRP of \$34,900. In response to Mr. Cameron's inquiry about the origin of the screen, Ms. Hargrove explained that the present motor vehicle computer system was implemented in 1991, pursuant to legislation that mandated the Motor Vehicle Department to put all 56 counties onto a system. Prior to that time, only 13 counties had been automated. The vehicle information that is entered into the system originates from the dealer who sells the vehicle.

DOJ's Exhibit B contains the relevant portions of 61-3-501-504, MCA, the statutes relating to motor vehicle taxes. These statutes had been extensively amended by Senate Bill

57 in the 1997 legislative session. To determine the tax on a motor vehicle, pursuant to the 1997 legislation, the vehicle year is subtracted from the current year, and the resulting age of the vehicle is used with the matrix in 61-3-503, MCA. The subject vehicle is determined to be 3 years old by subtracting 1995 from 1998, and, according to the matrix, its depreciated value would be 58% of the MSRP. The taxable value of the subject vehicle, therefore, is \$20,242 (\$34,900 times .58). This is shown on DOJ Exhibit A, page 7. The statewide tax rate for automobiles is a flat 2%, so the taxable value of \$20,242 is multiplied by .02 to determine the amount of state tax owed. Ms. Hargrove explained that, pursuant to Title 61, MCA, Mr. Cameron was only taxed for 9 months rather than a full year, because he had purchased his vehicle from an auto dealer and it was reported for inventory while on the dealer's lot. Page 4 of Exhibit A is a copy of the automobile dealer's pro-rate certificate for the subject vehicle.

DOJ's Exhibit C is a copy of pages 25-26 of the National Market Reports, a guide used by the motor vehicle division. Ms. Hargrove pointed out that the 1995 Cadillac Deville, as shown in the guide, has a factory suggested retail price of \$34,900. Exhibit D is a copy of pages 12-13 of the January 1998 National Automobile Dealers Association

(NADA) gold book. This book also shows the MSRP of \$34,900 for a 1995 Cadillac Deville four-door sedan.

Ms. Hargrove explained that "once an MSRP is assigned to a vehicle by the manufacturer, under the taxation system it will always remain the same. It will never be changed. It becomes a part of that motor vehicle record." She testified that the only factors affecting the motor vehicle tax that would change would be the age of the vehicle and the depreciation schedule for that vehicle as set by statute.

Ms. Nordlund summarized the DOJ's case by testifying that "this is a difficult case because it is about politics, not about the law. We did change our tax system in 1997 ...the policymakers of this state created a different standard for how taxes are to be assessed, and the standard that you are most familiar with, market value, is not to be applied. 61-3-503, MCA, gives the DOJ very clear directive as to how to assess the value of a vehicle and then complete the taxes based on that assessment. It makes no difference whether it's Mr. Cameron's vehicle in Cascade County, whether it's a different Cadillac Deville in Troy or in Ekalaka. The standard is the same; it is fair and measurable as ascertained by the MSRP and the age of the vehicle. The standard is, did the DOJ apply the law correctly to arrive at Mr. Cameron's taxes for this particular vehicle? And the

answer to that question is that we did. The mandate is quite clear; it's just a formula that we apply."

BOARD'S DISCUSSION

Mr. Cameron had presented no exhibits to the board to support his requested value. Although he believed that the taxable value of his automobile was "an unrealistic price," he agreed that the value of the vehicle was determined in accordance with Senate Bill 57. He believed that this legislation was discriminatory, because it did not apply to trucks.

The DOJ explained that the 1999 legislature implemented legislation to basically index vehicle taxing. The 2% rate will change to 1.4%, and each year thereafter this rate will be adjusted based on the total statewide vehicle values of the prior year. Pursuant to House Bill 540, Chapter 515, passed by the 1999 legislature, Montana voters will have an opportunity to vote on a referendum in November of 2000 that would provide a different tax structure for vehicles, resulting in tax reductions. Although there have been and will be changes to the light vehicle taxation system, the board must operate under the law in effect at the time the appeal was filed. That law is very specific. A vehicle is taxed on the depreciated value of the manufacturer's suggested retail price. The evidence presented by the DOJ

showed that the subject vehicle's MSRP of \$34,900 was consistent in the National Market Reports, the NADA book and the VINassist program. The age of the subject vehicle was determined correctly by subtracting the model year (1995) from the current year (1998). The percentage of depreciation was determined correctly from the matrix in 61-3-503(2), MCA. The taxpayer agreed that the appraised value of his automobile had been determined according to the statute. The board has no discretion in this case. The law is clear, and the DOJ acted within the law in setting the appraised value of the subject vehicle.

Mr. Cameron had requested compensation in the amount of \$100 for the time spent in the hearing process. The Board has no authority to grant such compensation.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. **§15-2-301 MCA.**

2. **15-2-301, MCA. Appeal of county tax appeal board decisions.** (4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision.

3. **61-3-503, MCA. Assessment.** (2)(a) Except as provided in subsections (2)(c) and (2)(d), the depreciated

value for the taxation of light vehicles is computed by multiplying the manufacturer's suggested retail price by a percentage multiplier based on the type and age of the vehicle determined from the following table... (b) The age for the light vehicle is determined by subtracting the manufacturer's model year of the vehicle from the calendar year for which the tax is due.

3. **61-3-504. Computation of tax.** (1) The amount of taxes on a light vehicle ... is 2% of the value determined under 61-3-503.

4. The appeal of the taxpayer is hereby denied and the decision of the Cascade County Tax Appeal Board is affirmed.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject vehicle shall be entered on the tax rolls of Cascade County by the Assessor of that county at the value of \$20,242 as determined by the DOJ and affirmed by the Cascade County Tax Appeal Board.

Dated this 29th of October, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Chairman

JAN BROWN, Member

JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of October, 1999, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Maurice B. Cameron, Jr.
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Great Falls, Montana 59404

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