

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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JACK B. GEHRING,	)	
	)	DOCKET NO: PT-1997-39
	)	
Appellant,	)	
	)	
-vs-	)	<u>OPINION and ORDER</u>
	)	
THE DEPARTMENT OF REVENUE	)	
OF THE STATE OF MONTANA,	)	
	)	
Respondent.	)	

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The State Tax Appeal Board elected to hear the above entitled appeal on the record, pursuant to Section 15-2-301(2), MCA. Both parties were provided copies of the transcript of the Lewis & Clark County Tax Appeal Board hearing and were given thirty (30) days to submit additional statements if they wished to do so. Both parties responded with additional statements which are made part of the record. Neither party notified this Board that statements had not been received from the opposing party.

The subject property involved in this appeal is described as follows:

One-half interest in a mining claim,  
containing 18.36 acres,  
(No legal description provided)

Personal property located in Lewis & Clark County,  
Montana.

For the 1997 tax year, the Department of Revenue

(hereinafter DOR) appraised the subject property at a value of \$6,849 for the one-half interest mining claim land and \$31,985 for the personal property. The taxpayer appealed to the Lewis & Clark County Tax Appeal Board requesting a reduction in value to an unspecified amount for the property. The county board denied the appeal, and the taxpayer then appealed that decision to this Board.

The taxpayer contended that taxation is a violation of the United States Constitution. He stated, "As a citizen by Amendment I of U.S. Constitution states, Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. Gehring using the King James Bible, 2 Timothy, Chapter 2, Verse 6, "The husbandman that laboreth must be first partaker of the fruits." This is Gehring gets the money not the State. To government please do not restrict my religion by taking my money." He claimed discriminatory practices based on the "right to religion, and the exemption of taxes by religion is refused and denied by agents of the Dept. of Revenue."

Mr. Gehring also argued that, "The department of revenue exceeds the bounds of the United States Constitution, Article I Section 10, No State shall make any Thing(sic) but gold and silver Coin a Tender in Payment of Debts. See December 27, 1984, Notice and Petition Copy was omitted from the record transferred to State Appeal Board (Tax), but now included. See transcript page 10 and page 11. \$20.00 dollars in gold coin will buy a cow."

Mr. Gehring would not provide a value determination for the property stating only that "I'm exempt."(tr. pg 9)

Mr. Gehring testified at the local board hearing that the mining claim is used for "agricultural purposes" and not for mining at all. He also complained that the assessor changed his name. "I'm Jack B. Gehring. They changed it to Gehring, Jack. I don't know any Gehring Jack."(tr. pg 10) He provided nothing concerning the value of the land.

He raised other societal issues and reminded this Board of the oaths taken to uphold the United States Constitution and the Montana State Constitution.

The DOR pointed out that the assessment of Mr. Gehring's property is an estimated assessment, as it has been over the last five or six years. Mr. Swope, an appraiser for the DOR, testified at the local board hearing that every year the department sends out a business reporting form to owners of personal property. Mr. Gehring was sent one of the forms but has not returned it to the DOR; therefore, the DOR continued to estimate the annual assessment of personal property and has included penalties for failure to report the livestock and agricultural implements and machinery.

The DOR provided only the valuation statement on the mining claim land at the local board hearing.

This Board has heard previous appeals from this taxpayer concerning the taxation of personal property. 15-6-101, MCA,

provides that, (1) All property in this state is subject to taxation, except as provided otherwise. 15-6-201, MCA, provides the categories of property that are exempted from taxation. The claim by the taxpayer that the subject personal property, or that he is exempt from taxation is without merit. The fact that this is and has been an estimated assessment is troubling in that the Board is unsure as to the accuracy of the estimation by the DOR. The taxpayer continues to refuse to provide the DOR with the information that would put an end to this continuing round of property estimated assessment, penalty and interest addition, and appeals that are not supported in fact.

Based on a review of the record before the Lewis & Clark County Tax Appeal Board and the statements submitted by the taxpayer and the DOR, the Board finds that the taxpayer failed to present sufficient evidence to support the position that the Lewis & Clark County Tax Appeal Board's decision was erroneous and therefore failed to sustain the burden on appeal. For the foregoing reasons, the above appeal is hereby denied and the decision of the Lewis & Clark 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 property shall be entered on the tax rolls of Lewis & Clark County by the Assessor of said County at the value of \$6,849 for the one-half interest mining claim land and \$31,985 for the personal property for tax year 1997 as determined by the Department of Revenue and affirmed by the Lewis & Clark County Tax Appeal Board.

DATED this 9th day of October, 1998.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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PATRICK E. McKELVEY, Chairman

( S E A L )

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GREGORY A. THORNQUIST, Member

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LINDA L. VAUGHEY, 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 after the service of this Order.