

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF JUSTICE)		
OF THE STATE OF MONTANA)		DOCKET NO.: PT-1998-33
)	PT-1999-8
Appellant,)		
)	
-vs-)		FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
MICHELLE MEEKS (BYRNES),)		ORDER and OPPORTUNITY
)	<u>FOR JUDICIAL REVIEW</u>
Respondent.)		

The above-entitled appeal was heard on January 19, 2000, in the City of Superior, 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 Department of Justice (DOJ), represented by Attorney Brenda Nordlund and Training and Development Supervisor of the Motor Vehicle Division, Nancy L. Hargrove, presented testimony in support of the appeal. The taxpayer, represented by Michelle Meeks (Byrnes) and Michael Byrnes, 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:

1994 Chevrolet S-10 pickup truck, Vehicle
Identification Number 1GCDT19Z5R8103509

3. For the 1998 tax year, the value assessed to the subject vehicle by the DOJ was \$11,906.30.

4. For the 1999 tax year, the value assessed to the subject vehicle by the DOJ was \$10,764.60.

5. The taxpayer appealed to the Mineral County Tax Appeal Board on November 17, 1998, requesting a reduction in value to \$8,000 for the 1998 tax year, stating:

Unfair assessment of vehicle for the age, model.

6. The taxpayer appealed to the Mineral County Tax Appeal Board on November 30, 1999, requesting a reduction in value for the 1999 tax year to \$6,500, stating:

Unfair assessment of vehicle for its age, mileage, & model.

7. Because the county tax appeal board had not met, and, therefore, had not heard the 1998 appeal, the 1998 and 1999 appeals were considered together.

8. In its December 7, 1999 decision, the county board apparently approved the taxpayer's requested value, although the board's decision did not specify the value, stating:

Even though the statutes appears to support the Department of Justice argument, we find in favor of the appellant (sic) because we feel this is an inequitable law. The values reflected by statute and not reality in what their vehicle might sell for.

9. The DOJ, through its attorney, Brenda Nordlund, appealed that decision to this Board on December 13, 1999, stating:

The decision is contrary to law and beyond the authority of the county board to act. The decision judges the "law" not the application of the law to the facts.

10. During the hearing before this Board, the taxpayer modified the requested values of the subject vehicle to \$10,176 for the 1998 tax year and \$9,200 for the 1999 tax year, based on a manufacturer's suggested retail price of \$13,940.

DOJ'S CONTENTIONS

Ms. Nordlund requested that the Board take judicial notice of several statutes, presented as Exhibits A, B and C. The statutes, in pertinent part, as highlighted by the DOJ, are as follows:

15-8-11. Assessment-market value standard-exceptions.

(1) All taxable property must be assessed at 100% of its market value except as otherwise provided...

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:...

(c) as otherwise authorized in Titles 15 and 61.

15-8-202. Motor vehicle assessment by department of justice. (1)(a) The department of justice shall assess all light vehicles, subject to 61-3-313 through 61-3-316 and 61-3-501, for taxation in accordance with 61-3-503.

61-3-503. 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...

DOJ's Exhibit D is a ten-page exhibit consisting primarily of copies of computer screens from the DOJ Motor Vehicle Division's data base. Ms. Hargrove explained that "all fifty-six counties are connected to this data base, and any time a vehicle is licensed, titled or any actions taken on that vehicle, it affects these screens." Page 1 of Exhibit D contains a complete description of the subject vehicle, a 1994 red Chevy truck. Ms. Hargrove testified that the VIN, which is found on the third line of this screen, "specifically identifies this particular 1994 Chevy, which would make it different from any other 1994 Chevy." She pointed out that the vehicle value, shown on the fourth line of this screen, is **\$16,310**, which was the manufacturer's suggested retail price (MSRP), without options, when the vehicle was new.

Ms. Hargrove explained that "once the MSRP is established on a motor vehicle, we use the information that was provided in the State's Exhibit C, from 61-3-503, to determine the age of the motor vehicle by subtracting the model year from the current year. For the 1998 assessment it would have been four years old, and for the 1999 assessment it would have been five years old. You will notice that 61-3-503 shows three different types of vehicles, and the truck is the line we're interested in. For the year **1998** we would have taken **73%** of the MSRP. For **1999** we would have taken **66%** of the MSRP, and then used that value to take times the 2% for property tax in Superior, Mineral County. You do have a .5% county option, so you would take 2.5% of that calculated value to determine the tax."

Page 3 of Exhibit D shows the **1999** tax value of the subject vehicle as **\$10,764.60**, the property tax as **\$215.69** and the county option tax as **\$53.82**. The total of **\$269.12** was handwritten by Ms. Hargrove on the exhibit. Page 4 shows the **1998** tax value of the subject vehicle as **\$11,906.30**, the property tax as **\$238.12** and the county option tax as **\$59.53**.

Page 2 of Exhibit D indicates that as of December 6, 1999, Michelle Meeks and Alvin Meeks were the registered owners of the subject vehicle. Pages 5 and 6 present "historical information in terms of the tax assessment of

this vehicle before Senate Bill 57 (1997 legislative session) was implemented." Page 5 indicates that the 1997 tax value was \$10,075, and page 6 indicates that the 1996 tax value was \$11,050. Ms. Hargrove explained that these values were determined under a different law than the DOJ currently uses.

Page 7 is a breakdown of the subject vehicle's 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 1GCDT19Z5R8103509. 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	Chev-Gen.Motors
C	Vehicle Type	Truck
D	Gross Veh. Wt.	5001-6000 GVWR
T	Line	Sm.conv.cab 4x4
1	Series	1/2 ton
9	Body style	Ext.cab/ext.van
Z	Engine	4.3L V6 TBI
5	Check digit	Check digit valid
R	Year	1994
8	Assembly plant	Shreveport, LA
103509	Sequence number	In range

Page 8 of Exhibit D is a copy of the relevant page from the 1997 NADA (National Automobile Dealers' Association) reference guide; and page 9 is a copy of the relevant page from the October 1999 NMR (National Market Reports) reference guide. Ms. Hargrove testified that the DOJ uses

NMR rather than NADA, because it provides the detailed information, based on the VIN of a vehicle, needed to correctly identify vehicles for assessment purposes. The NADA guide (page 8 of Exhibit D) shows only the S-19 model, which is two-wheel drive, while the NMR guide (page 9 of Exhibit D) shows the T-19 model, which is four-wheel drive, as is the subject vehicle.

Page 10, the final page in Exhibit D, is a copy of an inquiry screen used to cross-check the identification of the subject vehicle. Ms. Hargrove explained that "this is a menu item available to county motor vehicle clerks...if you input the vehicle type, which in this case is a "tk" for "truck," the year, which is 1994, the "Chevy," and the VIN, the information came back to me that the MSRP was \$16,310, and it gave the gross vehicle weight, the source, which is our National Market Report Guide, and the engine description." She testified that this information would be the same throughout the state, regardless of a vehicle's location, as would the depreciated factor based on the vehicle's age.

TAXPAYER'S CONTENTIONS

Taxpayer's Exhibit 1 is a twenty-page document. Pages 1 through 3 consist of highlighted sections of the following codes: **15-8-202(1)**, **15-8-111(3)**, **61-3-503(2)(a) and (b)**, and **61-3-503(3)(a)**. Mr. Byrnes contends that 61-3-503(2)

specifies that the DOJ must use the manufacturer's suggested retail price to determine taxable value, yet the NMR guide used by the DOJ indicates "suggested factory suggested retail price" rather than MSRP. Pages 4 and 5 of Exhibit 1 are Webster's Dictionary definitions as follows: (1) **"manufacturer: one that manufactures; especially: an employer of workers in manufacturing."** (2) **"factory: (a) a building or set of buildings with facilities for manufacturing; (b) the seat of some kind of production."** Mr. Byrnes maintains that "manufacturer" and "factory" are not the same, therefore, "suggested factory suggested retail price" does not follow the Montana code, which states that "manufacturer's suggested retail price" is used to determine the taxable value of vehicles.

Pages 10 and 11 of Exhibit 1 are copies of the October 1999 and July 1999 NADA guides showing an S-10, Chevy pickup truck, fleetside extended cab, model number S-19, with an MSRP of \$11,790. The guide indicates that a "T" as the first digit of the model number denotes a four-wheel drive vehicle. Therefore a T-19, rather than an S-19, would indicate the four-wheel drive model of the above-listed vehicle. Mr. Byrnes believes that the NADA guide ought to be used by the DOJ rather than the NMR guide to value vehicles, as it is more commonly used by dealers, and it correctly

uses "MSRP" as specified in the code rather than "suggested factory suggested retail price" as used in the NMR guide.

Mr. Byrnes testified that the Montana code states that fair market value is to be used when valuing vehicles for tax purposes. "Fair market value is not represented by the depreciation schedule, so the code actually doesn't follow itself." Mr. Byrnes believes that "taxpayers aren't very happy with the way motor vehicles are being taxed," and he presented, as pages seventeen through twenty of Exhibit 1, a copy of Constitutional Initiative No. 80 (CI-80), which will be on the ballot in November of 2000, a proposal to replace current motor vehicle taxes with a flat tax of \$30. Mr. Byrnes testified that the market uses loan value, and the loan value for the subject vehicle in the January 1998 NADA guide (page 13 of Exhibit 1) is \$9,650.

Mrs. Byrnes stated that her idea of a fair market value for a vehicle is "to take the commonly-used, previously-used book (NADA guide), look at the manufacturer's suggested retail price, follow all the instructions in that book, which denote the same things, do your additions, and that will come up with your fair taxable value." The MSRP of the subject vehicle, as determined by the taxpayers through use of the above formula, is \$13,940. Mrs. Byrnes testified that the amount of her loan to purchase this vehicle in 1993 was

\$16,850. She agreed that she paid over market for the vehicle, but it was her first new vehicle and she was "very excited."

BOARD'S DISCUSSION

The taxpayer had argued that a "factory" is not the same as a "manufacturer," therefore the "factory suggested retail price" is not the same thing as the "manufacturer's suggested retail price," which is specified in the codes. The Board does not consider that argument to be valid. A factory is the building or buildings in which goods are produced by a manufacturer. It follows that a factory suggested retail price would have the same meaning as a manufacturer's suggested retail price. The Board does agree with the taxpayer that the term "*suggested factory suggested retail price* (emphasis added), as used in the NMR guide, is redundant wording, and the guide's author could eliminate one "*suggested*" for clarity. However, that is beyond the scope of the Board's authority.

The taxpayer expressed concern about the National Market Reports (NMR) guide being used by the DOJ rather than the more widely-known National Automobile Dealers' Association (NADA) guide. The DOJ uses the NMR guide because it provides more specific information about a vehicle, based on its Vehicle Identification Number (VIN). Ms. Hargrove

testified that "one of the reasons that the DOJ chose NMR was that each VIN is different on a motor vehicle. NADA could not supply us with the detail that we needed to correctly identify any given motor vehicle, and that was the reason that we chose NMR as our person or our company to give us MSRPs, manufacturer's suggested retail prices." The subject vehicle is a graphic example of the information provided in the NMR guide not being available in the NADA guide. The exhibits provided by both the taxpayer and the DOJ show the subject vehicle, which is designated as a T-19 because of its four-wheel drive, listed in the NMR guide with its MSRP (or suggested factory SRP) of \$16,310. The various issues of the NADA guide, again provided as exhibits by both the taxpayer and the DOJ, show only the S-19, or two-wheel drive model, with an MSRP of \$11,790. The taxpayer contends that the MSRP of the subject vehicle is derived by using the NADA MSRP for the S-19 and adding the amount listed for four-wheel drive, as well as adding and subtracting for other features either found or not found on the subject vehicle. The Board believes that this would be an unwieldy process for the DOJ to use, and could result in errors in calculations.

The taxpayer's requested value is based on her determination of the MSRP of \$13,940, derived from taking

the \$11,790 MSRP of an S-19 as shown in the NADA guide, and adding differing amounts for four-wheel drive and trim, and deducting differing amounts for standard transmission. These amounts differ according to which issue of the NADA guide is used. The amounts shown for the options above are in columns in the NADA guide with the headings "Loan" and "Retail," indicating that the amounts would be used when a vehicle is being bought or sold, or valued for loan purposes. Because these amounts differ over time, it is not realistic to assume that the MSRP of an T-19 could be determined accurately by taking the MSRP for an S-19 and adding and subtracting options listed, unless perhaps one were using the NADA guide from the year the vehicle had been manufactured. Ms. Nordlund testified, in her closing argument, that "if we had, or the taxpayer had provided a 1994 version of NADA, you would see no difference in the valuation between the NMR MSRP the DOJ used and what the taxpayers are relying on as the source. And I think evidence of that fact is depicted in the fact that the NMR guide for the S-19, which is not the vehicle that is before this Board, is identical in the NMR guide as it is in the NADA guide, upon which they are relying."

The 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 \$16,310 was consistent in the National Market Reports and the VINassist program. As Ms. Nordlund testified, if a 1994 NADA guide had been available, the MSRP would also have been consistent in it. The age of the subject vehicle was determined correctly by subtracting the model year (1994) from the current year (1998 for the 1998 appeal and 1999 for the 1999 appeal). The percentage of depreciation was determined correctly from the matrix in 61-3-503(2), MCA (73% for 1998 and 66% for 1999). The board has no discretion in this case. The law is clear, and the DOJ acted within the law in setting the assessed value of the subject vehicle.

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 Department of Justice is hereby granted and the decision of the Mineral County Tax Appeal Board is reversed.

//
//
//
//
//
//
//
//
//
//
//
//
//
//
//

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 Mineral County by the Assessor of that county at the value of \$11,906.30 for the tax year 1998 and \$10,764.60 for the tax year 1999 as determined by the DOJ. The appeal of the DOJ is therefore granted, and the decision of the Mineral County Tax Appeal Board is reversed.

Dated this 10th of February, 2000.

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.

//

//

//

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10th day of February, 2000, 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:

Michelle Meeks Byrnes
P. O. Box 854
Superior, Montana 59872

Motor Vehicle Division
Department of Justice
Second Floor, 303 N. Roberts
P. O. Box 201430
Helena, Montana 59620

Treasurer's Office
Mineral County
County Courthouse
Superior, Montana 59872

Philip B. Donally
Mineral County Tax Appeal Board
40 Donally Lane
Superior, Montana 59872

DONNA EUBANK
Paralegal