

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

HAROLD G. NEUMANN,)
) DOCKET NO.: PT-1997-139
Appellant,)
)
-vs-)
)
THE DEPARTMENT OF REVENUE) FINDINGS OF FACT,
OF THE STATE OF MONTANA,) CONCLUSIONS OF LAW,
) ORDER and OPPORTUNITY
Respondent.) FOR JUDICIAL REVIEW

The above-entitled appeal was heard on August 19, 1998, in the City of Kalispell, 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 given as required by law. The taxpayer, Harold Neumann, presented testimony in support of the appeal.

The Department of Revenue (DOR), represented by property valuation specialists Mollye Faulkner and Mary Brown, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received, time allowed for the receipt of post hearing submittals, and 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:

FINDINGS OF FACT

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

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

Personal property, various items of equipment: including but not limited to lathes, milling machines, power mills, band saw, and welders.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$533,745. (Exhibit F)

4. The taxpayer appealed to the Flathead County Tax Appeal Board requesting a reduction in value to \$200,903.

5. The county board denied the appeal.

6. The taxpayer then appealed that decision to this Board.

7. The DOR has made a revised assessment on the subject property.

TAXPAYER'S CONTENTIONS

Mr. Neumann stated his business started as a hobby in his garage, and for a period of time he acted as an equipment broker. He testified that the bulk of the machinery was acquired gradually over a period of several years. He stated

that most of the equipment he purchased from dealers was used, and none was purchased at auctions. He also testified that some of the pieces were made by himself, making it difficult to place an actual acquired cost on those particular pieces.

Mr. Neumann testified he had not furnished the DOR with a completed business property reporting form. Instead he provided a hand-written list containing the price of the equipment. He stated that, until the hearing before the CTAB, he was not aware of the reporting requirements. He also testified he was advised by someone close to him to wait for the DOR to send him an assessment.

Mr. Neumann argued the acquisition cost for the personal property was less than the value placed on each item by the DOR. He provided invoices and/or purchase orders for the various pieces of equipment (Exhibits 2 through 15). He also included an invoice for a bandsaw that was not included on the DOR's estimated assessment (Exhibit 13).

Mr. Neumann testified he had requested an independent appraisal of the machinery from Morton Machinery Company that was based solely on information he furnished to Morton. He stated that, when he requested the assessment, all equipment was represented to be in good to average condition for its age. Morton Machinery Company supplied him with a fair market value of the various pieces of equipment (Exhibit 16).

At the conclusion of the hearing, Mr. Neumann agreed to furnish the Board and the DOR each with a copy of the depreciation schedule used in preparation of his income tax returns.

DOR'S CONTENTIONS

The DOR made repeated attempts to obtain the cost information from the taxpayer. The DOR mailed Mr. Neumann a personal property reporting form along with instructions to fill out the form and return it to the Flathead County DOR office. Ms. Faulkner also testified that she sent the taxpayer reminder letters in February and March, 1997. The taxpayer failed to return the personal property reporting form, and the DOR performed an estimated assessment for the subject property. Ms. Faulkner testified the DOR was unsure as to many of the particulars concerning the property such as age, purchase date, or purchase amount. Ms. Faulkner stated she used 1995 as the year acquired on the estimated assessment. The CNC machinery was valued based on a ten-year life and the milling machinery was valued based on a 15-year life.

Ms. Faulkner testified the taxpayer had not been assessed a penalty due to an oversight on her part.

BOARD'S DISCUSSION

Mr. Neumann did not argue that the property was not subject to taxation. His disagreement was merely with the

market value as determined by the DOR. The invoices and purchase orders presented by the taxpayer would indicate that the value placed on the equipment by the DOR was more than twice the actual cost paid by the taxpayer; however, in order to accurately determine market value, Ms. Faulkner stated that the DOR must have information on the acquisition costs of each piece of machinery as well as the date of acquisition. Without these two important components, it is impossible to determine an accurate value for the subject property.

Mr. Neumann did furnish the necessary information shortly after the conclusion of the hearing, providing the DOR with the correct information to assess properly the subject property for taxation for the tax year 1997. The DOR's post hearing submission utilized the numbers provided to them by the taxpayer. The values set by the DOR from those numbers were provided to this Board as \$274,914 for the subject personal property. A cooperative atmosphere insofar as completion of the personal property reporting form would have been helpful in arriving at the value initially.

This appeal is, therefore, granted in part and denied in part and the decision of the Flathead County Tax Appeal Board is hereby modified.

CONCLUSIONS OF LAW

1. 15-8-301, MCA. (1) The department may require from a person a statement under oath setting forth specifically

all the real and personal property owned by, in possession of, or under the control of the person at midnight on January 1.

The statement must be in writing, showing separately:

(a) all property belonging to, claimed by, or in the possession or under the control or management of the person;

(b) all property belonging to, claimed by, or in the possession or under the control or management of any firm of which the person is a member;

(c) all property belonging to, claimed by, or in the possession or under control or management of any corporation of which the person is president, secretary, cashier, or managing agent;

(d) the county in which the property is situated or in which the property is liable to taxation and, if liable to taxation in the county in which the statement is made, also the city, town, school district, road district, or other revenue districts in which the property is situated;

2. 15-8-306, MCA. Upon discovery, any property willfully concealed, removed, transferred, or misrepresented by the owner or agent thereof to evade taxation must be assessed at not exceeding 10 times its value, and the assessment so made must not be reduced by the county tax appeal board.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject personal property shall be entered on the tax rolls of Flathead County by the assessor of that county at the 1997 tax year value of \$274,914 as determined by the Department of Revenue.

Dated this 16th of December, 1998.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. McKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, Member

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 following the service of this Order.