BEFORE THE STATE TAX APPEAL BOARD

OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE OF THE STATE OF MONTANA,	)	DOCKET NO.: PT-1998-10
Appellant,	)	
-vs-	)	
CLINICAL ASSOCIATES OF GREAT FALLS,	)	FINDINGS OF FACT CONCLUSIONS OF LAW, ORDER and OPPORTUNITY FOR JUDICIAL REVIEW
Respondent.	)	

The above-entitled appeal came on regularly for hearing on the 21st day of April, 1999, in the City of Great Falls, Montana. The taxpayer was represented by Betsy Rushworth, Ph.D.

The Department of Revenue (DOR) was represented by Sue Williams and Sharon Miller of the Cascade County Assessor’s Office.

The subject property involved in this appeal is:

Personal property located in Cascade County, State of Montana (Assessor ID number 1053600).

FINDINGS OF FACT

1. For the 1998 tax year, the DOR appraised the subject personal property at a value of $6,929.

2. The taxpayer appealed to the Cascade County Tax

Appeal Board on June 19, 1998 requesting a reduction in value to $3,763, stating "Clinical Associates ceased to be an entity on 3-15-98. The two partners at that time moved to other and separate locations, starting businesses in the new locations on 3-16-98. Personal property was sold for $2,508.75 to other parties with $509.34 worth of additional property going to the office of Betsy Rushworth, Ph.D. and $744.92 going to Lynn Johnson, Ph.D.”

3. The Cascade County Tax Board, in its August 13, 1998 decision, reduced the value of the subject personal property to $4,676, stating: "After hearing testimony and reviewing exhibits, the Board finds the taxpayer’s list of assets (Exhibit #1) to be the actual inventory as of January 1, 1998 with a value of $4,676.00. This appeal has been adjusted to reflect this value.”

4. The DOR then appealed that decision to this Board on September 10, 1998, stating: “The CTAB decision is contrary to law and administrative rule.”

DEPARTMENT OF REVENUE CONTENTIONS

The DOR agent testified that the decision of the Cascade County Tax Appeal Board was appealed to this Board for the reason that Montana statutory law and administrative rule was not adhered to by the local board.

DOR Exhibit A is a copy of Section 15-8-201, MCA, stating in pertinent part:

General assessment day. (1) The department shall, between January 1 and the second Monday in July in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county. The department shall assess property to the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1. .

DOR Exhibit B is a copy of 15-6-122, MCA, which states in pertinent part:

Business equipment tax on business personal property. A personal property tax applied to any class of personal property, excluding livestock, described in this part that belongs to, is claimed by, or is in the possession of or under the control or management of a sole proprietor, firm, association, partnership, business, corporation, or limited liability company is a business equipment tax.

DOR Exhibit C is a copy of ARM 42.21.158 relating to property reporting time frames:

(1) Taxpayers having property in the state of Montana on January 1 of each year must complete the statement as provided for in 15-8-301, MCA. . .

DOR Exhibit D is a copy of ARM 42.21.154 relating to the valuation of furniture and fixtures:

(1) The market value of furniture and fixtures is determined by multiplying an indexed depreciation factor times the <u>installed acquired cost</u> of the property. . . (Emphasis supplied). The indexed depreciation is the product of the trend factor (based on age and category of property) times the depreciation factor from the appropriate table.

DOR Exhibit E is a copy of a document entitled "Reminder to Return Personal Property Reporting Form" form sent by the DOR to the taxpayer. This form was returned to the DOR by the taxpayer on April 3, 1998 with the handwritten notation "No additions or deletions."

DOR Exhibit F is a copy of the DOR's 1998 summary of value form detailing Clinical Associates' business equipment holdings, dated April 10, 1998. This summary of value form shows the 1998 market value of the subject personal property.

DOR Exhibit G is a copy of the DOR's 1997 summary of value form detailing Clinical Associates' business equipment holdings, dated March 21, 1997. This summary of value form shows the 1997 market value of the subject personal property. The second page of this exhibit is a copy of the taxpayer's 1997 submission to the DOR with certain items of personal property highlighted with the notation "Items highlighted in green are no longer at Clinical Associates. All else is still there." The DOR agent stated that these items were removed from the 1998 summary of value sheet. The stated purpose of this exhibit was to reiterate that the acquired year and the acquired cost of the subject items of personal property were established and have been on record for the years 1996, 1997 and 1998 and that, according to ARM 42.21.154, the installed acquired year and acquired cost on January 1 determine market value for personal property subject to taxation.

TAXPAYER'S CONTENTIONS

The taxpayer's representative, Dr. Betsy Rushworth, testified that the business entity challenging the DOR's assessment in the present appeal, Clinical Associates, formed in the fall of 1993 and disbanded on March 15, 1998. The issue on appeal, therefore, is the taxpayer's contention that the business associates were left in the position of having to pay taxes for the remainder of 1998 on business equipment which no longer served the business entity (Clinical Associates) which existed on January 1, 1998, but only up to and including March 15 of that year.

Taxpayer's Exhibit 1 is a listing of the business personal property items that were "closed out" when Clinical Associates dissolved, the disposition of those items, and the value assigned to each item by Dr. Rushworth. This exhibit also contains a listing of items sold by Clinical Associates to various entities and private parties, the date of sale and the amount of each sale. Dr. Rushworth testified that the taxpayer's values were derived from the use of DOR depreciation schedules. Exhibit 1 also contains a copy of a September 30, 1998 letter from the taxpayers to the Cascade County Treasurer advising that the 1998 taxes were being paid under protest and a copy of the September 17, 1998 letter from the State Tax Appeal Board to the taxpayers acknowledging receipt and acceptance of the Department of Revenue appeal of the Cascade County Tax Appeal Board decision.

When asked by the Board how she arrived at her requested value of $3,763.01, she responded, "I added up all of the items that were on the list that the Department probably gave to us, or I added up the value of everything that we had at the beginning of 1998, assessed a value to each of those things, depreciated over the time that we had had those items and came up with a total of $2,508.75. . . perhaps to that, because these were the prices that we got from the sale of items, so I must have added $2,508.75 to the assessed value of those items that Dr. Johnson and I retained for our own use but what we retained. . . so, I am assuming that if I add all these things up that it would add up to $3,768. I came up with $4,665. Oh, I bet what I did was I did not include the value of those items that went home."

DISCUSSION

The primary issue before this Board appears to be the taxpayers' contention that Clinical Associates was left in the position of having to pay taxes for the remainder of 1998 on business equipment which no longer served the business entity

(Clinical Associates) which existed on January 1, 1998, but only up to and including March 15 of that year.

The Board finds that neither statutory law nor administrative rule allows the DOR to prorate or to apportion a tax burden based upon the number of months during each year that items of personal property are actually in the possession of the owner as of January 1, general assessment day pursuant to 15-8-201, MCA. Nor does administrative rule or statutory law allow the sale price of assets at the time of business liquidation to be adopted as the market value for those personal property items.

The DOR has satisfactorily demonstrated that it has used the method of valuation prescribed by law and by administrative rule: installed acquired cost and acquired year based upon information provided by the taxpayer.

There was a discussion during the hearing before this Board concerning the acquired year of an office telephone system valued by the DOR at $3,490. This telephone system was leased in 1990 for that value. The lease expired in 1995 and the taxpayers were given the option to buy the equipment for $1, which they opted to do. The taxpayer argued that the acquired year should have been reported as 1990. The Department of Revenue agent agreed. The Board will order that, for the tax year in question (1998), that the acquired year of 1990 for the telephone system shall be adopted and the appropriate depreciation allowance applied.

CONCLUSIONS OF LAW

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

2. **15-6-122, MCA. Business equipment tax on business personal property.** A personal property tax applied to any class of personal property, excluding livestock, described in this part that belongs to, is claimed by, or is in the possession of or under the control or management of a sole proprietor, firm, association, partnership, business, corporation, or limited liability company is a business equipment tax.

3. **15-8-201, MCA. General assessment day.** (1) The department shall, between January 1 and the second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county. (2) The department shall assess property to: (a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; . . .

4. **ARM 42.21.158 Property Reporting Time Frames.** (1)

Taxpayers having property in the state of Montana on January 1 of each year must complete the statement as provided for in 15-8-301, MCA.

5. **ARM 42.21.154 Valuation of Furniture and Fixtures.** 1. The market value of furniture and fixtures is determined by multiplying an indexed depreciation factor times the installed acquired cost of the property. . . the indexed depreciation factor is the product of the trend factor (based on age and category of property) times the depreciation factor from the appropriate table.

6. The appeal of the Department of Revenue is hereby granted and the decision of the Cascade County Tax Appeal Board is hereby reversed.

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 Cascade County by the Assessor of said County at the value determined by the Department of Revenue upon amendment of the acquired year of the telephone system as discussed above.

The appeal of the Department of Revenue is hereby granted, with the correction to the acquired year of the telephone system made, and the decision of the Cascade County Tax Appeal Board is hereby reversed.

DATED this 8th of June, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

____
GREGORY A. THORNQUIST, Chairman

(S E A L)

____
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 8th day of June, 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:

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