

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2011-000208

09/19/2012

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

PENN RACQUET SPORTS INC

DANIEL T GARRETT

v.

MARICOPA COUNTY, et al.

KATHLEEN A PATTERSON

JERRY A FRIES

UNDER ADVISEMENT RULING

The Court took this matter under advisement following oral argument on September 18, 2012. Upon further consideration of the Plaintiff's Motion for Summary Judgment and both Defendants' Cross-Motions for Summary Judgment, the Court finds as follows.

The Court need not decide whether the Department's methodology conforms to A.R.S. § 42-13054(A) and § 42-13352(C), which define the taxable value of personal property as "the result of acquisition cost¹ less any appropriate depreciation." Even if the methodology is contrary to the statutes, it does not constitute an error correctible under the error correction statute.

Relief under A.R.S. § 42-16251(3)(e)(v) is available only for an "objectively verifiable error that does not require the exercise of discretion, opinion or judgment." The Department's method – using a trending adjustment to yield replacement cost new, applying straight-line depreciation to that number to produce market value, and finally subtracting market value from acquisition cost to calculate "appropriate depreciation" – is a unified whole, which the Department in its discretion has judged to provide the most accurate result. If the use of the trending adjustment is improper, it has infected the calculation of appropriate depreciation, and correcting it is not as straightforward as simply replacing the minuend "replacement cost new" with "acquisition cost." To demonstrate: replacement cost new (RCN) is equal to acquisition cost (AC) plus some positive x obtained through application of the trending factor. Applying a

¹ A.R.S. § 42-13352(C) actually says "acquisition costs," in the plural. The Court does not believe the legislature intended any difference.

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depreciation rate R to RCN is thus equivalent to $R(AC) + R(x)$. But $R(x)$ is a function of the trending factor alone and has nothing to do with acquisition cost; subtracting it from acquisition cost yields a nonsensical result. In fact, as the end of a property's useful life approaches, Penn's solution produces an accounting impossibility. Ignoring salvage value, the sum of annual depreciations equals by definition the depreciable base, here RCN. Subtracting the equivalent of RCN from AC yields a negative value. So if, as Penn's counsel stated at oral argument, "appropriate depreciation should not include trending," then the depreciation figures in the tables must themselves be discarded.

Because the depreciation numbers obtained by the Department's methodology are unusable, they must be replaced with "appropriate depreciation" pursuant to the statutes. Determining "appropriate depreciation" requires the exercise of discretion by the Department. Error correction relief is therefore not available.

Accordingly,

IT IS ORDERED denying Plaintiff's Motion for Summary Judgment filed April 26, 2012.

IT IS FURTHER ORDERED granting Maricopa County's Cross-Motion for Summary Judgment and the Arizona Department of Revenue's Cross-Motion for Summary Judgment, both filed June 29, 2012.

IT IS FURTHER ORDERED directing Defendants to lodge a form of judgment and file any Application and Affidavit for Attorney's Fees and Statement of Taxable Costs within thirty (30) days of the filing date of this minute entry.

Arizona Tax Court - ATTENTION: eFiling Notice

Beginning September 29, 2011, the Clerk of the Superior Court will be accepting post-initiation electronic filings in the tax (TX) case type. eFiling will be available only to TX cases at this time and is optional. The current paper filing method remains available. All ST cases must continue to be filed on paper. Tax cases must be initiated using the traditional paper filing method. Once the case has been initiated and assigned a TX case number, subsequent filings can be submitted electronically through the Clerk's eFiling Online website at <http://www.clerkofcourt.maricopa.gov/>

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