

PETITIONER REPRESENTATIVE:
Kenneth Lassiter, Air Methods Corporation

RESPONDENT REPRESENTATIVE:
Trish Schnur, Personal Property Deputy for Vanderburgh County

INDIANA BOARD OF TAX REVIEW

Key Equipment Finance, Inc.	)	Petition No.:	82-029-06-1-7-05462
)		
Petitioner,	)	Parcel No.:	11-07-20347
	)		Personal Property
v.)		
	)	County:	Vanderburgh
Vanderburgh County Assessor,	)	Township:	Pigeon
)		
Respondent	)	Assessment Year:	2006

Appeal from the Final Determination of
Vanderburgh County Property Tax Assessment Board of Appeals (PTABOA)

October 19, 2009

FINAL DETERMINATION

The Indiana Board of Tax Review (the Board) having reviewed the facts and evidence and having considered the issues, now finds and concludes the following:

ISSUE

1. The issue presented for consideration by the Board is whether the equipment under appeal is an integral part of a medical helicopter leased by the Petitioner to a hospital or is taxable medical equipment for the purposes of the property's 2006 tax assessment.

PROCEDURAL HISTORY

2. Pursuant to Ind. Code § 6-1.1-15-1, the Petitioner's employee Tiffany I. Festo, filed a Form 130 Petition to the Vanderburgh County Property Tax Assessment Board of Appeals (the PTABOA) for review of the property's 2006 personal property assessment on December 20, 2006. A Form 115 Notification of Final Assessment Determination was mailed to Key Equipment Finance, Inc., on July 12, 2007. The Petitioner subsequently filed a Form 131 Petition to the Board to conduct a review of the PTABOA's decision on August 10, 2007.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, the duly designated Administrative Law Judge (the ALJ), Rick Barter, held a hearing to consider the appeal on July 21, 2009, in Evansville, Indiana.

4. The following persons were sworn and presented testimony at the hearing:

For the Petitioner:

Ken Lassiter, Senior Tax Analyst, Air Methods Corp.¹

For the Respondent:

Candy Wells, Hearing Officer for Vanderburgh County Assessor,
Tiffany Collins, Administration Assistant for Vanderburgh PTABOA,
Trish Schnur, Personal Property Deputy for Vanderburgh County,
Nancy Locke, Personal Property Deputy for Vanderburgh County.

5. The Petitioner presented the following evidence:

Petitioner Exhibit 1 – Form 113/PP Notice of Assessment Change,
Petitioner Exhibit 2 – Letter to Pigeon Township from Tiffany Festo dated
November 11, 2006,

¹ Air Methods was the lessee of the property at issue in this appeal and was responsible for the taxes on the personal property. Air Methods' representative, Mr. Lassiter, attended the hearing by teleconference by agreement of the parties. All exhibits were provided to the Board and the Respondent prior to the hearing and there were no procedural issues or objections during the hearing.

- Petitioner Exhibit 3 – Copy of an amended Form 104 dated May 10, 2006,
- Petitioner Exhibit 4 – Copy of an amended Form 103 dated May 10, 2006,
- Petitioner Exhibit 5 – Copy of Indiana Code § 6-6-6.5,
- Petitioner Exhibit 6 – Explanation of the relationship between Air Methods and the Petitioner,
- Petitioner Exhibit 7 – Contentions and copies of photographs of the helicopter at issue in this matter,
- Petitioner Exhibit 8 – Documentation of the excise taxes paid by the Petitioner and the helicopter's registration,

- Respondent Exhibit 1 – Copy of the Petitioner's Form 103 and attachments dated March 1, 2006,
- Respondent Exhibit 2 – Copy of the Form 113/PP Notice of Assessment Change,
- Respondent Exhibit 3 – Copy of the Form 131 petition to the Board,
- Respondent Exhibit 4 – Vanderburgh County personal property correspondence card file,
- Respondent Exhibit 5 – Copy of an electronic mail message between the county and the Department of Local Government Finance dated November 8, 2006,
- Respondent Exhibit 6 – Indiana Certificate of Aircraft Registration,
- Respondent Exhibit 7 – Calculation of tax dollars and excise tax.

6. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:

- Board Exhibit A – Form 131 petition with attachments,
- Board Exhibit B – Notice of Hearing and attachments,
- Board Exhibit C – Hearing sign-in sheet.

7. The personal property under appeal is an interior installation in a Bell Helicopter used as a medical transport aircraft in 2006.

8. The ALJ did not conduct an on-site inspection of the subject property.

9. For 2006, the PTABOA determined the assessed value of the personal property to be \$222,090. *Board Exhibit A.*

10. The Petitioner requested a total assessed value of \$153,110 for 2006. *Board Exhibit A.*

JURISDICTIONAL FRAMEWORK

11. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

ADMINISTRATIVE REVIEW AND THE PETITIONER’S BURDEN

12. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. Of Tax Comm’rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
13. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct., 2004). (“[I]t is the taxpayer’s duty to walk the Indiana Board...through every element of the analysis”).
14. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id; Meridian Towers*, 805 N.E.2d at 479.

PETITIONER’S CONTENTIONS

15. The Petitioner contends that the personal property at issue in this appeal is not “medical equipment” as the County argues, but is comprised of alterations to and component parts

of the interior of a Bell helicopter. *Lassiter argument*. Mr. Lassiter testified that the helicopter is permanently outfitted for use as a medical evacuation aircraft. *Lassiter testimony; Petitioner Exhibit 7*. During the retrofit, the interior of the helicopter is torn out and the aircraft is rewired because FAA regulations require that any kind of equipment installed in an aircraft must be able to be turned off by the pilot in case of an emergency. *Id.* According to Mr. Lassiter, the floor, the wiring and the walls were replaced on the aircraft. *Id.* In support of this contention, the Petitioner's representative submitted a memorandum describing the retrofit process and a number of photographs showing the helicopter's interior. *Petitioner Exhibit 7*.

16. The Petitioner's representative argues that the assessed items are all an integral part of the aircraft. *Lassiter argument*. According to Mr. Lassiter, the items are attached to the aircraft and are part of the systems controlled by the pilot. *Lassiter testimony*. Any equipment that is not attached, such as portable monitors are brought in by hospital personnel and are owned by the hospital. *Id.*

17. Mr. Lassiter further argues that because the interior is custom fabricated for the particular aircraft and is not equipment added over the existing interior, the interior is tax exempt. *Lassiter argument*. According to Mr. Lassiter, Indiana Code § 6-6-6.5-12 states, in pertinent part, "...there is hereby imposed an annual license excise tax upon taxable aircraft, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes. No taxable aircraft shall be assessed as personal property for the purpose of the assessment and levy of personal property or shall be subject to ad valorem taxes, beginning with taxes for the year 1975 payable in 1976, and thereafter." *Id.; Petitioner Exhibit 5*. The Petitioner registered the helicopter and paid the required excise taxes. *Lassiter testimony; Petitioner Exhibit 8*. As a result, the Petitioner argues, the Board should accept the amended personal property tax return filed by the Petitioner and reduce the taxable value of the property to \$153,110. *Lassiter argument*.

RESPONDENT'S CONTENTIONS

18. The Respondent contends that the property in question is considered medical equipment and not the interior of the aircraft. *Schnur argument*. As a result, the equipment is assessable and taxable. *Id.* In support of its contention, the Respondent entered into evidence Ms. Schnur's hand-written notes suggesting that Department of Local Government Finance (DLGF) employees stated that the equipment is assessable and taxable. *Respondents Exhibit 4 and 5; Schnur testimony*. According to Ms. Schnur, the Board should affirm the PTABOA determination because the difference in taxes on the property at issue is over \$3,000 of property tax versus only \$377.50 in excise taxes. *Schnur testimony*.

ANALYSIS

19. Indiana Code § 6-6-6.5-12 states that "Effective January 1, 1976, there is hereby imposed an annual license excise tax upon taxable aircraft, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes. No taxable aircraft shall be assessed as personal property for the purpose of the assessment and levy of personal property or shall be subject to ad valorem taxes, beginning with taxes for the year 1975 payable in 1976, and thereafter." Ind. Code § 6-6-6.5-12(a). The Petitioner offered undisputed testimony and records that the Bell helicopter is licensed and excise taxes are paid according to Indiana statutes. *Petitioner Exhibit 8; Lassiter testimony*. Thus, the only question is whether the personal property at issue is attached to and a part of a specialty aircraft or whether it is separate medical equipment that is assessable and taxable.
20. Here, the Petitioner's witness testified that the helicopter is permanently outfitted for use as a medical evacuation aircraft. *Lassiter testimony*. According to Mr. Lassiter, the floor, the wiring and the walls were replaced on the aircraft. *Id.* All of the assessed items are attached to the aircraft and are part of the systems controlled by the pilot. *Id.* Mr.

Lassiter testified that any equipment that is not attached – such as portable monitors – are brought in by hospital personnel and are owned by the hospital. *Id.* In support of his testimony, the Petitioner’s representative submitted a memorandum describing the retrofit process and a number of photographs showing the helicopter’s interior. *Petitioner Exhibit 7.* Thus, the Petitioner raised a prima facie case that the helicopter interior is a permanent part of the aircraft and, as a result, the interior is not taxable and its value should be removed from the Petitioner’s 2006 personal property return.

21. Once the Petitioner has established a prima facie case the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Insurance Company v. Maley*, 803 N.E.2d 276 (Ind. Tax Court 2004). To rebut or impeach the Petitioner’s case, the Respondent has the same burden to present probative evidence that the Petitioner faced to raise their prima facie case. *Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Court 2005).
22. Here, the Respondent presented hand-written notes purporting to indicate that at least two staff members at the DLGF believed the helicopter interior was taxable and that the county was correct to deny the amended value. However, the Respondent presented no evidence to show that the personal property was medical equipment that was separate or removable from the medical evacuation helicopter. Similarly, the Respondent failed to provide any statute, regulation or case holding that, if the property is part of the helicopter as the Petitioner claims, the material is still taxable under Indiana law. Thus, the Respondent failed to impeach or rebut Petitioner’s prima facie case.²

SUMMARY OF FINAL DETERMINATION

23. The Petitioner raised a prima facie case. The Respondent failed to rebut or impeach the Petitioner’s case. The Board therefore finds in favor of the Petitioner and holds that the Petitioner’s personal property should be valued at \$153,110.

² Without probative evidence showing that the property is assessable, the fact that its property taxes would have been ten times the excise tax paid by the Petitioner has no bearing on the Board’s determination.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

Chairman,
Indiana Board of Tax Review

Commissioner,
Indiana Board of Tax Review

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.