

BEFORE THE IDAHO BOARD OF TAX APPEALS

DALLAS AND KAREN GRAY,)	
)	
Appellants,)	APPEAL NO. 14-A-1028
)	
v.)	FINAL DECISION
)	AND ORDER
BONNER COUNTY,)	
)	
Respondent.)	
_____)	

FOREST LAND APPEAL

This appeal is taken from a decision of the Bonner County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RP59N04W023300A. The appeal concerns the 2014 tax year.

This matter came on for hearing September 24, 2014 in Sandpoint, Idaho before Board Member Linda Pike. Appellants Dallas and Karen Gray were self-represented. Assessor Jerry Clemons represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

The issue on appeal concerns whether certain forest land qualifies for special valuation under Title 63, Chapter 17, Idaho Code.

The decision of the Bonner County Board of Equalization is affirmed.

FINDINGS OF FACT

The subject property is an improved 34.4 acre rural tract located near Coolin, Idaho. Subject was originally part of a larger 74.4 acre parcel purchased by Appellants in 1990. In 1993, Appellants formed Coolin Company (Corp), an Idaho S-Corporation. Title to the 74.4 acres was transferred to Corp in January 1994. Following a timely application for the 2005 tax year, the parcel was determined to qualify as forest land designated for special

valuation pursuant to Idaho Code § 63-1703. Such designation and valuation treatment persisted until the current 2014 tax year.

Seeking to qualify for a reverse mortgage program, Appellants were advised by their financial institution to transfer title of the property from Corp to themselves, as individuals. Rather than transfer title of the entire tract, the mother parcel was split into two (2) parcels on December 19, 2013. This split created a 40-acre property and the adjacent 34.4 acre subject parcel. Upon discovering the title transfer, Respondent determined subject no longer qualified for the forest land valuation program. As such, subject was assessed at full market value.

Appellants argued subject should not have been removed from the special forest land valuation because they were the sole shareholders of Corp. In Appellants' view, whether legal title to subject was held in their names as individuals or in Corp's name was immaterial because Appellants' and Corp were essentially the same person. Respondent contended Appellants and Corp were separate legal persons and the transfer of title caused subject to be disqualified for the forest land valuation. Respondent explained a new application process was required to receive the special valuation treatment in future tax years.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable, exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and

documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The issue here centers on whether the transfer of the subject land from Corp to Appellants should have caused the land to lose its special valuation treatment under the designated forest land program.

Idaho Code § 63-1703 provides in pertinent part;

For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than five thousand (5,000), whether contiguous or not, as long as such parcels are held in common ownership, must be designated by the forest landowner to be subject to the provisions of either subsection (a) or (b) of this section . . . The dollar amount of deferred taxes subject to recapture shall be determined by the county assessor by applying current tax levies against the current values that would have been in effect if the lands were subject to appraisal and assessment during the current year under the provisions of section 63-1705, Idaho Code, *if there has been a change in ownership* or a removal of designation, or section 63-1702, Idaho Code, if there has been a change in use with no change in ownership, which amount shall be multiplied by the number of years that the lands have been subject to the designation under section 63-1706, Idaho Code . . .

(a) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, *shall become effective the first day of January* following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1706, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1706, Idaho Code, *shall become effective the first day of January* following the year of designation. (emphasis added).

The record was not clear which of the above subsections, either (a) or (b), subject

was operating under prior to title being transferred from Corp to Appellants. This distinction, however, is not determinative regarding the issue of whether the transfer of ownership caused subject to be disqualified for the special forest land valuation.

Forest landowner, as referenced in the above code section, is defined as “the legal entity which holds the property rights under law to the forest land surface.” Idaho Code § 63-1701(5). In many instances, such as the case here, the forest landowner is the same as the record owner of the forest property. Idaho Code § 63-201(24) defines record owner as, “the person or persons in whose name or names the property stands upon the records of the county recorder’s office.” The term person “means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entities as recognized by the state of Idaho.” Idaho Code § 63-201(18). Corp transferred title to subject land to Appellants in December 2013. Therefore, on January 1, 2014, Appellants were the forest landowners for purposes of the forest land valuation program.

It is a well-established principle that a corporation is a legally distinct person, separate from its shareholders. Indeed, this legal separation, and insulation from personal liability, is an important benefit of choosing the corporate form. Appellants contended the transfer of subject’s title from Corp to them, as individuals, was effectively a transfer between the same persons and therefore should not have impacted subject’s status in the forest land valuation program. While the Board understands Appellants’ position, we cannot disregard the transfer of subject’s title from one person to another. Such an

approach would ignore the recognized legal separation between a corporation and its shareholders. Just as there are benefits of a particular form of business entity, so too are there burdens, and one must bear the burdens associated with the particular form of entity chosen; even those unintended.

The controlling statute clearly states a property's inclusion in the forest land valuation program is lost when a change of ownership occurs. In this case, ownership of subject changed from Corp to Appellants in December 2013, which caused the property to lose its special forest land valuation status. In order to regain the special valuation treatment, Appellants needed to have completed the application process no later than December 31, 2013. Because no new application was filed, Respondent's decision to remove subject from the forest land valuation program was proper.

As subject did not qualify for the special valuation program for 2014, it must be assessed at full market value, just as any other non-exempt property. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Respondent provided market value information in support of subject's assessed value. However, as Appellants did not protest subject's market value determination, we need not further explore Respondent's analysis in this regard.

Based on the above, the Board finds Appellants did not prove error in subject's

assessment by a preponderance of the evidence. Idaho Code § 63-511. Therefore, the decision of the Bonner County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 4th day of February, 2015.