

BEFORE THE IDAHO BOARD OF TAX APPEALS

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|---------------------|---|----------------------|
| THE COOLIN COMPANY, | ) |                      |
|                     | ) |                      |
| Appellant,          | ) | APPEAL NO. 18-A-1044 |
|                     | ) |                      |
| v.                  | ) | FINAL DECISION       |
|                     | ) | AND ORDER            |
| BONNER COUNTY,      | ) |                      |
|                     | ) |                      |
| Respondent.         | ) |                      |
| _____               | ) |                      |

**FOREST LAND EXEMPTION APPEAL**

This appeal is taken from a decision of the Bonner County Board of Equalization denying an appeal of the valuation for taxing purposes of property described by Parcel No. RP59N04W023300A. The appeal concerns the 2018 tax year.

This matter came on for hearing October 23, 2018 in Sandpoint, Idaho before Hearing Officer Cindy Pollock. President Dallas Gray appeared at hearing for Appellant. Chief Deputy Assessor Al Ribeiro represented Respondent.

Board Members David Kinghorn, Leland Heinrich and Kenneth Nuhn join in issuing this decision.

**The issue on appeal concerns whether forest land on the subject property qualifies for special valuation treatment pursuant to Idaho Code § 63-1703.**

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

FINDINGS OF FACT

The assessed land value is \$244,723, and the improvements' value is \$322,234, totaling \$566,957. Appellant agrees with the value of the improvements, however, contends the correct land value would include a forest land classification and be \$104,467, resulting in a total value of \$426,701.

The subject property is an improved 34.4 acre rural residential parcel located in the Priest Lake area with forest on it.

Appellant detailed the ownership history of the subject property and its historical classifications for assessment purposes as having designated forest land, since Appellant acquired the property in 1994. An application for the special valuation treatment afforded to qualifying forest land, which is commonly referred to as the forest land exemption, was filed in 2004 and approved for the 2005 assessment year. The exemption remained in place until it was removed for the 2014 assessment year. The exemption was removed because as of January 1, 2014, title to the property was held in the names of Appellant's stockholders (hereinafter "the Grays"). Title was returned to Appellant sometime during 2014 and a new forest land exemption application was filed and approved for the 2015 assessment year. Then, on November 19, 2015, title was again transferred from Appellant to the Grays for refinancing purposes. Title was transferred back to Appellant on December 30, 2015. No new forest land exemption application was filed, however, some of subject's land still subsequently received the special forest land value for tax years 2015 and 2016. In May 2017, title was once again transferred from Appellant to the Grays, which title was later transferred back to Appellant in December 2017. No new forest land exemption application was filed. Because Appellant held title to the property on January 1, 2018, it was argued the exemption should have been left in place for 2018.

Respondent maintained removal of the forest land exemption treatment was proper because ownership of the property changed and a new application was not filed.

#### 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 sole issue in this matter is whether certain land on the subject property qualifies for special valuation treatment pursuant to Idaho Code § 63-1703, commonly referred to as the forest land exemption. Based on the below, we find the forest land at issue does not qualify for the exemption for the 2018 assessment year.

Appellant detailed the title transfer history of the subject property, of which only the 2017 transfers are relevant here. Subject's title transferred twice during 2017. The first title transfer occurred in May 2017 from Appellant to the Grays and the second, which conveyed title back to Appellant, transpired in December 2017. The title transfers themselves are not at issue, but rather the fact Appellant failed to file a new application following the latest acquisition of subject's title from the Grays.

Idaho Code § 63-1703 reads in relevant 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 . . . .*  
(Emphases added.)

The law is clear the forest landowner must designate, on a form prescribed by the Idaho State Tax Commission, whether the forest land is to be assessed, appraised, and taxed under

either Idaho Code § 63-1705, the productivity option, or under Idaho Code § 63-1706, the bare land and yield option. This designation generally remains in place until changed by the forest landowner, or when ownership of the property changes, or the use of the forest land changes.

In this case, ownership of the subject land changed two (2) times during 2017, with the last transfer in December causing title to change from the Grays to Appellant. As the above statute makes clear, the forest land exemption was lost with the latest change in ownership. Approval of a new application is required in order to restore the *de facto* exemption. And where no new application was timely filed and approved, Respondent's removal of the special valuation treatment for the current assessment year was proper and required.

"Tax exemptions exist as a matter of legislative grace, epitomizing the antithesis of traditional democratic notions of fairness, equality, and uniformity . . . When an ambiguity arises in construing tax exemption statutes, the court must choose the narrowest possible reasonable construction." *Corp. of the Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Ada Cnty.*, 123 Idaho 410, 416, 849 P.2d 83, 86 (1993). Furthermore, "Idaho case law requires that all tax exemption statutes be strictly and narrowly construed against the taxpayer, who must show a clear entitlement, and in favor of the state. Courts may not presume exemptions, nor may they extend an exemption by judicial construction where not specifically authorized. The language of exemption statutes must be given its ordinary meaning . . . ."

The controlling statute in this appeal unambiguously provides the forest land exemption was lost when ownership of the subject property changed to Appellant<sup>1</sup>, thus necessitating the

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<sup>1</sup>Actually, the record suggests the forest land exemption should have been lost following the ownership transfer in 2015 because Appellant did not file an application for the exemption. However, as this appeal concerns only the 2018 assessment year, Appellant's latest acquisition of title in December 2017 is

need for Appellant, a new forest landowner, to file a new application. As no new application was filed, we find no error in Respondent's removal of the special forest value (exemption). Accordingly, 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 4<sup>th</sup> day of January, 2019.

IDAHO BOARD OF TAX APPEALS

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the relevant transfer for purposes of this decision.