

BEFORE THE UTAH STATE TAX COMMISSION

JUAB COUNTY,¹)
)
) **ORDER TO CONVERT INITIAL**
) **HEARING INTO A RULEMAKING**
) **HEARING**
v.)
) Appeal No. 03-1059
PROPERTY TAX DIVISION)
OF THE UTAH STATE) Tax Type: Property Tax/
TAX COMMISSION,) Tax Rate
)
Respondent.)

Presiding:

Pam Hendrickson, Commission Chair
R. Bruce Johnson, Commissioner
Palmer DePaulis, Commissioner
Marc B. Johnson, Commissioner
Kerry R. Chapman, Administrative Law Judge

Appearances:

For Petitioner: Mr. Bill Thomas Peters, Attorney for Uintah County
Mr. David Scofield, Attorney for Uintah County
Mr. Michael Wilkins, Clerk-Auditor, Uintah County
Mr. Kelly Wright, Attorney for Morgan County
For Respondent: Mr. Tim Bodily, Assistant Attorney General

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing, which was held pursuant to the provisions of Utah Code Ann. §59-1-502.5 on July 8, 2003.

¹ Twelve counties filed separate appeals concerning the same issue relating to Respondent's calculation of certified tax rates. All twelve appeals were heard simultaneously. The twelve counties and their respective appeal numbers are: Uintah(03-0988), Grand(03-1044), Kane(03-1045), Juab(03-1059), Tooele(03-1060), Beaver(03-1061), Daggett(03-1062), Duchesne(03-1063), Emery(03-1064), San Juan(03-1066), Morgan(03-1068), and Carbon(03-1089).

At the hearing, twelve counties challenged the method by which Property Tax Division (the “division”) calculates their certified tax rates for property tax purposes. Specifically at issue is how the division estimates an entity’s “equalization losses” in its calculation of tax rates and whether these “equalization losses” should include losses due to appeals of centrally-assessed properties. Both the counties and the division recommended that such losses should be included as equalization losses, in addition to the losses already included for appeals of locally-assessed properties.

Subsequent to the initial hearing, the Utah Taxpayers Association (“UTA”) requested to intervene in the matter. UTA submitted a letter in which it purports to represent taxpayers who would be affected by the outcome of this matter and states its opposition to the recommendation offered by the Petitioners and the Respondent. UTA’s position is that the estimates of “equalization losses,” for tax rate purposes, should only include those losses due to appeals of locally-assessed properties, and not centrally-assessed properties.

The issue has arisen due to language in the pertinent statute and rule that is not completely explicit. While a prior Commission and the UTA interpreted the language not to include losses due to appeals of centrally-assessed properties, the counties and division are certainly correct that the language does not explicitly forbid the inclusion of such losses. In fact, a strong argument exists that the language in the statute and rule require their inclusion in the tax rate formula.

We also recognize that this matter involves a tax rate policy that will affect hundreds of taxing entities, in addition to every property taxpayer in Utah. Because the 2003 tax rate process

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is nearly complete for all these affected entities, the Commission finds it would be extremely difficult to implement a change of policy for 2003. Petitioners acknowledged this difficulty at the Initial Hearing and agreed that any change in policy resulting from this appeal would not take effect until the 2004 tax year.

The Commission believes it is important for the Petitioners to have this issue resolved prior to the forthcoming tax year. We also believe that when an issue affects the tax rates of hundreds of taxing entities and every property taxpayer, as is the case here, a hearing in the appeals process between a limited number of participants may not afford the most efficient means to give all affected parties an opportunity to voice differing opinions.

For these reasons, we are converting the initial hearing into a rulemaking hearing. By proceeding immediately with the rulemaking process, an administrative resolution should be in place before the end of the year. In addition, all affected parties will have an opportunity to offer comments concerning the proposed rule, as well as have an opportunity to participate at the public hearing. Accordingly, we consider the appeals filed by the Petitioners to be a joint proposal to amend Utah Admin. Rule R884-24P-24 and that they propose to clarify that “equalization losses” include losses due to appeals of both locally-assessed and centrally-assessed properties. We will submit the Petitioners’ proposed rule amendment to the Division of Administrative Rules within the next week and notify all interest parties of the date, time, and place of public hearing concerning the proposed rule. Appeal No. 03-1059 will then be closed. We will accept the UTA’s intervention as

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comments on the proposed rule and will add them to the rule file. Copies of these and other comments will be available to any interested party on request.

DATED this _____ day of _____, 2003.

Kerry R. Chapman
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2003.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

Marc B. Johnson
Commissioner

NOTICE OF APPEAL RIGHTS: This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become final unless a party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. The written request must include the appeal number and the above captioned case name, and it must be delivered to the Tax Commission Appeals Unit, 210 North 1950 West, Salt Lake City, Utah 84134. Failure to timely request a Formal Hearing will preclude any further appeal rights in this matter.

KRC/COMM/03-1059.int