

Reference Sources for materials on explanations and definitions for Tangible, Intangible, General Exemptions and Property Taxation.

Prepared by Kenneth C. Uhrich, Appraisal Supervisor, Wyoming Department of Revenue at the request of the “Joint Interim Revenue Committee, Subcommittee on Intangible Property, conference call September 7, 2004.

Date: September 13, 2004

State of Arkansas

Ark. Code Ann. Sec 26-26-1606(b) “Arkansas law requires that the Tax Division “ascertain the value of property, tangible and intangible, including good will, easements, and franchises, except the right to be a corporation, it being the purpose of this subchapter to include in the valuation every element that adds value to the property.”

Arkansas Supreme Court citations on taxation of Intangibles:

<http://courts.state.ar.us/opinions/2000b/20001109/99-915>

Provided by: Sarah M Bradshaw, Director, Tax Division, Arkansas Public Service Commission, (501) 682-1231 smb@psc.state.ar.us

State of California

www.boe.ca.gov/proptaxes/pdf/ah502.pdf will go to the Revenue and Taxation Code Section 110 FMV and Section 212 and the Assessors Handbook 502. Additional citation for exclusions and inclusions is: www.boetaxes.ca.gov/property/vol1and2/rtc/part1.pdf

Provided by: Don Jackson, Director of Assessments, California State Board of Equalization, don.jackson@boe.ca.gov

State of Colorado

www.dola.state.co.us/PropertyTax/Publications/2003%20Manuals/ARL2_2003.pdf

Chapter 11 is the section that encompasses Colorado State Assessed procedures.

Intangibles Statutes are 39-4-102, 2911-101 (14) C.R.S. on Wireless carriers

Provided by: Bill Hyde, State Assessment Appraisal Section, Colorado Department of Revenue, Property Valuation Division, bill.hyde@state.co.us

State of Florida

The Intangible situation in Florida regarding intangibles is primarily driven by court decisions.

Provided by: Michael Ziegler, Director of Public Utilities, Florida Department of Revenue, zeiglerm@dor.state.fl.us

State of Kansas

For Public Utilities the Kansas Law states:

K.S.A. 79-5a04. "Same; valuation of real and personal property. The director of property valuation shall annually determine the fair market value of public utility property, both real and personal, tangible and intangible, of every public utility as defined in subsection (a) K.S.A. 79-5a01 and amendments thereto.

As used in this section, "faire market value" means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. For the purposes of this definition, it shall be assumed that consummation of a sale occurs as of January 1."

"With this definition the only intangibles that are removed from the appraisal are true intangibles such as money, mortgages and other evidences of debt. All the intangibles that the utility companies try to talk about are taxable."

Provided by: Floyd Rumsey, Appraisal Supervisor, Division of Property Taxation, Kansas Department of Revenue, Floyd_Rumsey@kdor.state.ks.us

State of Idaho

Idaho Code can be found at: www.accessidaho.org Then go to Title 63, and then to 63-602L, Afterward, go back to the main page and click on administrative rules and then property tax, identify the agency (state tax commission). Rule 615 elaborates on the intangible statutes.

Provided by: Alan Dornfest, Supervisor of Tax Policy, Idaho State Tax Commission. ADornfest@tax.state.id.us

State of Montana

The State of Montana statutes and administrative rules are available at: www.discoveringmontana.cm

The statute exempting intangible personal is 15-6-218 MCA. To get there from the state website select:

Government

Montana Constitution and Laws
Montana Codes
Title 15 Taxation
Chapter 6 Property Subject to Taxation
Part 2 Exemptions

The administrative rule applying to intangible personal property for centrally assessed property is 42-22-110 ARM. To get there select:

Government
State Agencies
Revenue, Department of
For Your References
DOR Administrative Rules
Current Department Rules
Chapter 22 Centrally Assessed Property
Sub-Chapter 1

Provided by: Vern Fogle, Appraisal Staff, Montana Department of Revenue, vfogle@state.mt.us

State of Nevada

Reference—(NRS) = Nevada Revenue Statutes
(NAC)= Nevada Administrative Codes

Nevada statutes are: NRS 361.320, which requires the Nevada Tax Commission to establish the assessed value of any property of an interstate or inter-county nature, including the property of railroad, carline, natural gas, transmission and distribution, water, telephone, scheduled and unscheduled air transport, and electric light and power companies.

NRS 361.228 Intangible personal property: Exemption fro taxation; prohibition against considering intangible personal property in determining value of taxable property; consideration of attributes of real property required.

NAC Chapter 361 (section 1) Standard prewritten computer programs ineligible for exemption as intangible personal property. (NAC 372.865, 870)

NAC Chapter 361 (section 2) Custom software programs are intangible personal property pursuant to NRS 361.228 and are exempt property. (NAC 372.855,885)

Provided by: Terry Rubald, Director of Assessments, Nevada State Tax Commission,

State of Oklahoma

The State of Oklahoma in State Question No. 460, Legislative Referendum No. 173 adopted at election held on August 27, 1968, with an effective date of January 1, 1969. The reference can be found at: www.LSB.state.ok.us Go to Oklahoma Constitution, search key word “Intangible” comes up OC 10-6aV2.Rtf “Intangible personal property exempt from ad valorem or other tax.”

- (a) Money and cash on hand, including currency, gold, silver, and other coin, bank drafts, certified checks and cashier’s checks.
- (b) Money on deposit in any bank, trust company, or other depository of money, within or without the State of Oklahoma, including certificates of deposit.
- (c) Accounts and bills receivable, including brokerage accounts, and other credits, whether secured or unsecured.
- (d) Bonds, promissory notes, debentures, and all other evidences of debt, whether secured or unsecured; except notes, debentures, and other evidences of debt secured by real estate mortgages which are subject to the Mortgage Registration Tax under Sections 12351-12362, inclusive Oklahoma Statutes, 1931 (68 O.S. 1961, Sections 1171-1182).
- (e) Shares of stock or other written evidence or proportional shares of beneficial interests in corporations, joint stock companies, associations, syndicates, express or business trusts, special or limited partnerships, or other business organizations.
- (f) All interests in property held in trust or on deposit within or without this state, and whether or not evidenced by certificates, shares, or other written evidence of beneficial ownership.
- (g) Final judgments and annuity contracts.
- (h) All annuities and annuity co

Provided by: Vicki Duncan, Oklahoma Tax Commission, Oklahoma Department of Revenue

State of Oregon

Oregon Exemption statutes are found in 307.126. As of this time, only FCC Licenses are exempt.

Provided by: Lind D. Blacklock, Industrial Property Supervisor, Oregon Department of Revenue, Linda.d.blacklock@state.or.us

State of South Dakota

SDCL 10-33-10. “Operating property for taxation by Department of Revenue and Regulation. All property, real and personal, which is annually and necessarily used in providing telephone and exchange service comprising rental and toll service by means of wired circuits and otherwise in this state, and which belongs to any telephone company in

this state which is not subject to provisions of SD 10-33-21 and 10-33-22 shall be assessed for the purpose of taxation by the Department of Revenue and Regulation, and not otherwise.”

Comment by Provider-“We include intangibles in the centrally assessed values as the definitions of operating property include all property, both real & personal.”

Provided by: Audrey Nelson, Appraisal Supervisor, South Dakota Department of Revenue and Regulation, Audrey.nelson@state.sd.us

State of Tennessee

“It’s easy in Tennessee. All property, tangible and intangible, is assessable for state assessed properties. The site is TCA 67-5-1301 (a).”

Provided by: Garry T. Harris, CAE, Assistant Director, State of Tennessee-Comptroller of the Treasury, Gary.Harris@state.state.tn.us

State of Utah

Utah has a Constitutional prohibition on property tax of intangibles-(Art. XIII, Sec. 2(5). The Utah Legislature has determined that the property tax only applies to tangible property (59-2-103(1) and has defined intangible property (59-2-107(17). The Utah code can be found at: www.utah.gov go to “view all online services” then go to “Utah Government”, then to “Utah Laws”.

Provided by: Palmer DePaulis, Utah State Tax Commission, palmer@utah.gov

State of Washington

The Washington Legislation and the definition of Intangible Personal Property can be found at: www.leg.gov/RCW/index.cfm?fuseaction=section§ion=84.36.070
www.leg.wa.gov/RCW/index.cfm?fuseaction=section§ion=84.36.600
for Exemption of software

Utilities are subject to central assessment (RCW 84.12)
www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=84.12 and
www.leg.wa.gov/wac/index.cfm?fuseaction=chapterdigest&chapter=458.50

In December 2000, the Washington Department of Revenue reported to the legislature on Intangibles legislation. That link is: <http://dor.wa.gov/Docs/Reports/Intang.PDF>

Provided by: Steve Yergeau, Director Of Assessments, Washington Department of Revenue, SteveY@dor.wa.gov

State of Wisconsin

The Wisconsin statutory citation which deals with property subject to ad valorem tax is Wisconsin Statutes 70.11

Citation 70.112 (1) MONEY AND INTANGIBLE PERSONALTY. Money and all intangible personal property, such as credit, checks, share drafts, other drafts, notes, bonds, stocks and other written instruments.

Citation 70.112 (4) General exemption from property taxes.

Public Utilities are addressed in Wisconsin Statutes 76, specifically 76.025 (1) and 76.03 (1)

Provided by: Kenneth C. Schuck, Utility Section Chief, Eugene Ro Miller , Wisconsin Bureau of Equalization and Frank Humphrey, Director of Bureau of Local Government Services, kschuck@dor.state.wi.us

State of West Virginia

Previously had a list of intangibles that were taxable @ a reduced rate. In practice the only thing actually taxed were receivables. A couple of years ago, the legislature phased out this intangible tax.

Prior to that, cellular company took us (West Virginia) to court claiming that their FCC License was intangible property that was not taxable. We took the position that since it was not on the intangible list nor was it on a list of exemptions, that we could tax it as a part of the unit at the higher tax rate. The West Virginia Supreme Court agreed with the taxpayer and now we adjust our values.”

Provided by: Jeff Amburgey, Supervisor of Central Assessments, West Virginia Department of Revenue, jamburgey@tax.state.wv.us

Appraisal Terminology/Definitions

Uniform Standards of Professional Appraisal Practice, 2004 Edition, Appraisal Standards Board, The Appraisal Foundation.

Going Concern-An operating business enterprise that is expected to continue.

Going Concern Value-The value of an operating business enterprise. Good will may be separately measured but is an integral component of going concern value.

Goodwill-An intangible asset category usually composed of elements such as name or franchise reputation, customer patronage, location, products and similar factors.

Intangible Property (Intangible Assets): nonphysical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, mineral rights, securities, and contracts, as distinguished from physical assets such as facilities and equipment.

Personal Property: Identifiable tangible objects that are considered by the general public as being “personal” for example furnishings, artwork, antiques, gems, jewelry, collectibles, machinery and equipment; all tangible property that is not classified as real estate.

Real Property: The interests, benefits, and rights inherent in the ownership of real estate.

“The Dictionary of Real Estate Appraisal” Appraisal Institute, Third Edition-1993.

Intangible Assets-1. nonphysical items of person property, e.g. franchises, trademarks, patents, copyrights, goodwill; 2. Deferred items such a development or organization expense.

Intangible value-A value that cannot be imputed to any part of the physical property, e.g., the excess value attributable to a favorable lease or mortgage; the value attributable to goodwill.

Tangible Property-Property that can be perceived with the senses; includes land, fixed improvements, furnishings, merchandise, cash, and other items of working capital used in an enterprise.

“Real Estate Appraisal Terminology” Society of Real Estate Appraisers, Revised Addition, 1984.

Intangible Assets (Property)-Items of property, such as franchises, trademarks, patents, copyrights, and goodwill; also such as deferred items as development or organization expense. May be used synonymously with intangible property.

Intangible Value-A value not imputable to any part of the physical property, such as the excess value attributable to a favorable lease, or the value attributable to goodwill.

Tangible Property-Property that, by its nature, is perceptible by the senses. Generally, the land, fixed improvements, furnishings, merchandise, cash, and other items of working capital used in carrying on an enterprise.

Tangible Value-The value assigned to the physical portion of property, such as land, building, machinery, furnishings, merchandise, cash, and other items which are perceptible by the senses.

“Glossary for Property Appraisal and Assessment”, International Association of Assessing Officers, 1997.

Property-(1) An aggregate of thing or rights to things. These rights are protected by law. There are two basic types of property: real and personal. (2) The legal interest of an owner in a parcel or thing.

Tangible Personal Property-Personal property that has a substantial physical presence beyond merely representational. It differs from real property in its capacity to be relocated. Common examples of tangible real property are automobiles, boats and jewelry.

Intangible Personal Property-Property that has no physical existence beyond merely representational, nor any extrinsic value; includes rights over tangible real and personal property but not rights of use and possession. Its value lies chiefly in what it represents. Examples include corporate stock, bonds, money on deposit, goodwill, restrictions on activities (for example, patents and trademarks), and franchises. Note: Thus, in taxation, the rights evidenced by outstanding corporation stocks and bonds constitute intangible property of the security holders because they are claims against the assets owned and income received by the corporation rather than by the stockholders and bondholders; interests in partnerships, deeds and the like are not ordinarily considered intangible property for tax purposes because they are owned by the same persons who own the assets and receive the income to which they attach.

“Wall Street Words” An Essential A to Z Guide for Today’s Investor, David L. Scoot-Professor of Accounting & Finance, Valdosta State University, Valdosta, Georgia, 1997.

Asset-Something of monetary value that is owned by a firm or an individual. Assets are listed on a firm’s balance sheet and include tangible items such as inventories, equipment, and real estate as well as intangible items such as property rights or good will.

Intangible asset-An asset such as a patent, goodwill, or a mining claim that has no physical properties. Since intangible assets are often difficult to value accurately, such assets when included on a corporate balance sheet may have a true value significantly different from the dollar amounts indicated there.

Intangible tax-A tax imposed by some states or local governments on the value of intangible assets such as stocks, bonds, money market funds, and bank account balances.

Tangible asset-An asset such as a building or piece of equipment that has physical properties.