

NOTICE OF DECISION

Appearances

Doug Scott, Angela Menzel, and Paul Johnson, Deputy District Attorney, appeared on behalf of the Clark County Assessor's Office (Assessor).

Paul Bancroft appeared on behalf of Frank J. Fertitta, III, Trustee, Case No. 12-178; F and L Aviation II, LLC, case No. 12-179; F and L Aviation, Case No. 12-181; Frank Fertitta, Trustee, Case No. 12-182; F and L Aviation II, LLC, Case No. 12-183; Fletcher Jones Management Group, Case No. 12-184; Las Vegas Sands, Case No. 12-185; Las Vegas Sands, Case No. 12-186; F and L Aviation, LLC, Case No. 11-209; Frank J. Fertitta Trustee, Case No. 11-210; F and L Aviation II, LLC, Case No. 11-211; Frank J. Fertitta, III, Trustee, Case No. 11-214; Fletcher Jones Management Group, Case No. 11-284 (Taxpayers).

Summary

The matter of the Assessor's petitions for review of personal property valuations of aircraft for the 2010-11 Unsecured, and 2011-12 Unsecured Roll within Clark County, Nevada, came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on October 17, 2012 after due notice to the Taxpayer and the Assessor.

The State Board consolidated case numbers 12-178, 12-179, 12-181, 12-182, 12-183 and 12-184 as well as case no. 11-209, 11-210, 11-211, 11-214, and 11-284. *See Tr., 10-17-12, p. 189, ll. 6 through p. 190, l. 20.* The Assessor offered new evidence consisting of information from the Secretary of State's office showing the Taxpayer is a domestic limited-liability company based in Nevada. The State admitted the new evidence into the record. *See Tr., 10-17-12, p. 190, l. 16 through p. 191, l. 9.*

The record and testimony from consolidated cases MGM Mirage Aircraft Holdings, LLC, Case No. 12-172; Whiskey Romeo Owner, LLC, Case No. 12-167; Bluebird Owner, LLC, Case No. 12-171; 350 Leasing Company I, LLC, Case No. 12-173; 350 Leasing Company, LLC, Case No. 12-174; 450 Leasing Company I, LLC, Case No. 12-175; 550 Leasing Company I, LLC, Case No. 12-176; 350 Leasing Company II, LLC, Case No. 11-290; 350 Leasing Company I, LLC, Case No. 11-292; 550 Leasing Company I, LLC, Case No. 11-295; Bluebird Owner, LLC, Case No. 11-302; and Whiskey Romeo Owner, LLC, Case No. 11-303 were incorporated into the record of the current cases. *See Tr., 10-17-12, p. 190, l. 16 through p. 191, l. 9; p. 293, ll. 5-8.*

The Assessor appealed the decision of the Clark County Board of Equalization (County Board) in each case, asserting that the aircraft value was properly apportioned to Nevada by excluding the days spent in other jurisdictions where taxable situs was established from the days in the year otherwise subject to taxation. The Assessor further asserted that, as the state of domicile of the aircraft owners, Nevada is entitled to tax the taxable value of the aircraft not subject to tax in other states. The Taxpayers responded that the proper method of apportionment is the "nights in" formula previously accepted by the State Board.

The State Board requested by motion that the Nevada Tax Commission adopt regulations for the allocation of value of airplanes by county assessors. *See Tr., 10-17-12, pp. 186-187.*

The State Board, having considered all evidence, documents and testimony pertaining to the valuation of the property in accordance with NRS 361.227, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

- 1) The State Board is an administrative body created pursuant to NRS 361.375.
- 2) The State Board is mandated to hear all appeals of property tax assessments pursuant to NRS 361.360 and NRS 361.400.
- 3) The Taxpayer and the Assessor were given adequate, proper and legal notice of the time and place of the hearing before the State Board, and the matter was properly noticed pursuant to the Open Meeting Law at NRS 241.020.
- 4) The subject properties consist of the following:

Case 12-178, SBE page 15	Frank Fertitta III, Tr	1984 Gulfstream G-1159A, Tail#711UF
Case 12-179, SBE page 7	F & L Aviation III, LLC	1999 Boeing 737-7BC 30327, Tail#796BA
Case 12-181, SBE page 7	F & L Aviation	2008 Bombardier 9284, tail #77UF
Case 12-182, SBE page 13	Frank Fertitta Trustee	2002 Gulfstream GIV 1484, Tail#721FF
Case 12-183, SBE page 13	F & L Aviation II, LLC	2000 Gulfstream G-IV 1422, Tail#7UF
Case 12-184, SBE page 7	Fletcher Jones Mgmt	2002 Gulfstream G-1V 1494, Tail#400FJ
Case 12-185, SBE page 7	Las Vegas Sands Corp	1995 Gulfstream G-IV, Tail#688LS
Case 12-186, SBE page 7	Las Vegas Sands Corp	1999 Hawker 800XP, Tail#885LS
Case 11-209, SBE page 43	F & L Aviation, LLC	2008 Bombardier 9284, Tail #77UF
Case 11-210, SBE page 43	Frank J. Fertitta, Trustee	2002 Gulfstream G-IV 1484, tail #721FF
Case 11-211, SBE page 43	F & L Aviation II, LLC	2000 Gulfstream G-IV 1422, Tail#7UF
Case 11-214, SBE page 44	Frank Fertitta III, Tr	1984 Gulfstream G-1159A, Tail#711UF
Case 11-284, SBE page 44	Fletcher Jones Mgmt	2002 Gulfstream G-1V 1494, Tail#400FJ

- 5) The Clark County Board of Equalization (County Board) determined that the proper method of allocation of value should be based on the number of overnight stays in Clark County. *See Record, Case no. 12-172, SBE pages 47 and 215; Case no. 12-178, SBE pages 10 and 156.*
- 6) The State Board found the proper method of allocation of value should be based on the amount of time the aircraft is in Nevada, known as the "nights in" policy. *See Tr., 10-17-12, p. 183, l. 8 through p.184, l. 24.*
- 7) The State Board affirmed the decision of the County Board. *See Tr., 10-17-12, p. 186, ll. 4-13; p. 192, l. 20 through p. 193, l. 7.*
- 8) The assessed value as previously determined by the County Board is 35% of taxable value.
- 9) Any finding of fact above construed to constitute a conclusion of law is adopted as such to the same extent as if originally so denominated.

CONCLUSIONS OF LAW

- 1) The Taxpayer timely filed a notice of appeal, and the State Board has jurisdiction to determine this matter.
- 2) The Taxpayer and the Assessor are subject to the jurisdiction of the State Board. In particular, the State Board has jurisdiction to hear Taxpayer's appeal for the 2010-11 and 2011-12 unsecured rolls pursuant to NRS 361.360(1) and NRS 361.400.

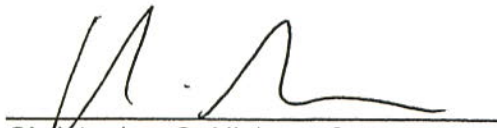
- 3) The State Board has the authority to determine the taxable values in the State.
- 4) The subject property is appraised at the proper taxable value as previously determined by the County Board in accordance with NRS 361.227 for the 2010-11 and 2011-12 tax years.
- 5) Any conclusion of law above construed to constitute a finding of fact is adopted as such to the same extent as if originally so denominated.

DECISION

The Petition of the Assessor is denied, based on the above Findings of Fact and Conclusions of Law. The Clark County Comptroller is instructed to certify the assessment roll of the county consistent with this decision.

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BY THE STATE BOARD OF EQUALIZATION THIS 31st DAY OF JANUARY, 2013.



Christopher G. Nielsen, Secretary
CGN/ter