

Case 26-111 came back before the State Board on September 25, 2026, after due notice to Empire and Assessor, for deliberation and decision.

The State Board, having considered all evidence, documents and testimony, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

- 1) The Board is an administrative body created pursuant to NRS 361.375.
- 2) On February 18, 2026, the Humboldt County Board of Equalization issued a Notice of Decision in Case No. HCB2026-01 denying Empire's petition. *SBE 26-111 Pg 148-149*. On or about March 1, 2026, Empire filed a timely appeal to the State Board. *SBE 26-111 Pg 1-5*.
- 3) Empire and 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) This matter was heard by the State Board on June 4, 2026. The matter appeared under Item IV of the Agenda.
- 5) This matter came back before the State Board on September 25, 2026. The matter appeared under Item V. of the Agenda.
- 6) The Assessor maintains two Humboldt County personal property accounts for Empire: EQ000104 (rental inventory out on rent on July 1, 2025) and EQ001042 (furniture, fixtures and equipment at Empire's Winnemucca facility on July 1, 2025). *SBE 26-111 Pg 152*.
- 7) Empire filed a timely personal property declaration for account EQ000104 and the assessment was based on the equipment reported on the declaration. The property record card for account EQ000104 is dated April 10, 2026 and is attached as Exhibit B to the Assessor's letter dated May 21, 2026. It reflects an assessed value of \$3,815,158. *SBE 26-111 Pg 175-179*.
- 8) Empire filed a timely personal property declaration for account EQ001042, however, it was not complete. The Assessor made a reasonable estimate of the property and assessed it accordingly. The reason the declaration was incomplete was not due to any "refusal" or "neglect" on the part of Empire. Instead, it was due in large part to a good faith dispute over which property should be reported. The parties have been working together to ensure there has been complete reporting of property. The adjusted property record card for account EQ001042 is dated April 10, 2026 and is attached as Exhibit C to the Assessor's letter dated May 21, 2026. It reflects an assessed value of \$1,972,736. *SBE 26-111 Pg 180-187*.

- 9) Empire is the exclusive Caterpillar ("CAT") dealer for Nevada. It is classified as a business operating under 423810 of the North American Industry Classification System (NAICS).
- 10) Most of Empire's revenue comes from the sale of CAT equipment and parts and the service and repair of CAT equipment. Empire also rents equipment, but revenue from rental activity is less than 15% of its total revenue. This distinguishes Empire from equipment rental companies, such as United Rentals, Sunbelt Rentals, H & E Rentals, and HERC Rentals, which receive over 80% of their revenue from equipment rentals.
- 11) Empire's rental inventory consists of Allied Equipment (non-CAT equipment), Small Cat Equipment¹ and Large CAT Equipment.² The Allied Equipment and the Small CAT Equipment are placed in the rental inventory for the useful life of the equipment. Large Cat Equipment does not remain in the rental inventory for the useful life of the equipment.
- 12) Empire includes Large CAT Equipment in the rental inventory (a) to fill the short-term needs of existing clients, (b) to provide customers a chance to 'test drive' the equipment before purchase, and (c) to create low-hour used equipment which Empire can offer for sale at a price competitive with second-tier manufacturers.
- 13) Empire provides its sales staff with a list of equipment available for sale. The list includes both new equipment and the Large CAT Equipment. When the sales staff meet with customers they offer the customer the equipment, whether new or used, which best meets their needs. In this way Empire is actively marketing the Large CAT Equipment.
- 14) Empire's business model encourages the sale of Large CAT Equipment. Since acquisition of the dealership, Empire has placed Large CAT Equipment in the rental fleet. In 2024, 3 of the items of Large CAT Equipment were sold: these items had been in the rental fleet for an average of 6.5 months. In 2025, 6 items of Large CAT Equipment were sold: these items had been in the rental fleet for an average of 1.9 years. The holding period for the Large CAT Equipment is similar to the holding period for similar equipment which is not placed in the rental fleet.
- 15) Empire holds the Large CAT Equipment for dual purposes: the equipment is held for sale and the equipment is held for rental.
- 16) The assessments for both accounts EQ000104 and EQ001042 include Large CAT Equipment. Empire contends the Large CAT Equipment in both accounts should

¹ The term "Small CAT Equipment" is a designation used by Empire to refer to certain, lower priced, lighter-duty, CAT equipment included in the rental inventory. Similar equipment is held by Empire in its inventory of new equipment held for sale.

² The term "Large CAT Equipment" is a designation used by Empire to refer to certain, higher priced, heavy-duty, CAT equipment included in the rental inventory. Similar equipment is held by Empire in its inventory of new equipment held for sale.

be exempt under NRS 361.068(1)(a) as personal property held for sale by a merchant.

- 17) Any finding of fact construed to constitute a conclusion of law is adopted as such to the same extent as if originally so denominated.

CONCLUSIONS OF LAW

- 1) Empire timely filed a notice of appeal.
- 2) Empire has the burden of proof pursuant to NAC 361.741.
- 3) The Findings of Fact are based upon a preponderance of the evidence. NRS 223B.125.
- 4) The State Board has authority to determine whether it has jurisdiction to hear a matter. Empire and Assessor are subject to the jurisdiction of the State Board.
- 5) NRS 361.360(4) prevents the State Board from reducing an assessment made by the county assessor if the appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include on its personal property declaration, or the taxpayer has, without good cause, refused entry to the assessor.
- 6) The State Board determined that it has jurisdiction to consider the valuation of the property in account EQ001042 and that it is not barred from doing so by NRS 361.360(4). *Transcript Pg 196, Line 23 through Pg 197, Line 11.*
- 7) Nevada imposes an annual property tax on personal property held by a taxpayer on July 1. To facilitate implementation of this tax, property owners are required to file a declaration listing all their taxable personal property. NRS 361.265.
- 8) NRS 361.068(1)(a) exempts personal property held for sale by a merchant from taxation. The statute is silent on the treatment of personal property that is both held for sale and held for rental.
- 9) The Department of Taxation supervises assessment procedures in the various counties and, when appropriate, advises county assessors in the application of those procedures. NRS 360.215(6).
- 10) In Advisory Opinion 23-005 (December 18, 2024) the Department of Taxation addressed the tax treatment of dual-purpose personal property. It advised the Assessors' Association of Nevada that "[w]hen personal property is held both for sale and lease, the taxpayer's primary purpose for holding the personal property will determine whether it is exempt from taxation under NRS 361.068."
- 11) The Large Cat Equipment is dual-purpose personal property. Empire contends that the primary purpose for holding all the Large Cat Equipment is for sale, while

the assessor contends the primary purpose for holding all the Large CAT Equipment is rental. Neither position accounts for the fluidity of the situation.

- 12) A taxpayer's purpose in holding personal property may change over time, even from one day to the next. Consequently, the determination of the primary purpose for holding personal property must be made on an annual basis, at the time the taxpayer is filing their declaration.
- 13) The property tax assessed on personal property is a snapshot in time; it is based on property owned by the taxpayer on July 1. The determination of whether the property is exempt should also be made as of that date. The best indicator of Empire's primary purpose in holding dual-purpose personal property is the use to which that property is put on July 1: if the Large CAT Equipment is rented it should be reported as taxable personal property, if the Large CAT Equipment is not rented but is available for sale, it should be treated as exempt property held for sale by a merchant.
- 14) The Large CAT Equipment included in account EQ000104 was being rented on July 1, 2025, and, consequently, the primary purpose for holding this equipment for tax year 2025-26 is as rental property. Therefore, this assessment is affirmed.
- 15) The Large CAT Equipment included in account EQ001042 was being held for sale on July 1, 2025, and, consequently, the primary purpose for holding this equipment for tax year 2025-26 is as personal property held for sale by a merchant. Therefore, the Large CAT Equipment included in this account is exempt property for tax year 2025-26 and the assessment for account EQ001042 needs to be corrected.
- 16) The foregoing resolves the case before us, but the parties have requested that we also address the applicability of NRS 361.159 and Advisory Opinion 26-003 issued by the Department of Taxation on March 2, 2026.
- 17) NRS 361.159 is not limited to property held by an *entity* exempt from taxation, it applies to personal property "which for any reason is exempt from taxation." Here, the Large CAT Equipment in account EQ001042 is exempt for tax year 2025-26 as personal property held for sale by a merchant and, consequently, NRS 361.159 would apply to the subsequent rental of the property in tax year 2025-26.
- 18) As Advisory Opinion 26-003 notes, under NRS 361.159 when personal property which is otherwise exempt is "leased, loaned or otherwise made available to and used by a natural person, association or corporation in connection with a business conducted for profit, the leasehold interest, possessory interest, beneficial interest or beneficial use of any such lessee or user of the property is subject to taxation."
- 19) NRS 361.159 contemplates an owner/lessor, in whose hands the property is exempt, and a user/lessee who uses the property in a business conducted for profit. The statute authorizes the assessment of an apportioned tax to the

user/lessee based on their use of the property. It does not authorize assessment of tax to the owner/lessor.

- 20) Here, the Large CAT Equipment included in account EQ001042 is exempt for tax year 2025-26 as personal property held for sale by Empire. If Empire subsequently rents that equipment to a business conducted for profit, a properly apportioned assessment may be issued, pursuant to NRS 361.159, to the business renting the equipment.
- 21) Senate Bill 196 (2025) authorizes heavy equipment rental companies to charge a recovery fee to offset property taxes on their equipment. This legislation does not affect the imposition of property tax or the determination of whether property is exempt. Furthermore, it only applies to “a person who is classified under 532412 or 532310 of the North American Industry Classification System and is primarily engaged in the business of renting heavy equipment.” Empire is not classified under 532412 or 532310, nor is it primarily engaged in the business of renting heavy equipment. Senate Bill 196 simply has no applicability to the issues in this case.
- 22) Any conclusion of law construed to constitute a finding of fact is adopted as such to the same extent as if originally so denominated.

DECISION

Based on the above Findings of Fact and Conclusions of Law and a preponderance of the evidence, the State Board hereby (i) affirms the assessment made on account EQ000104 for tax year 2025-26 because the Large CAT Equipment included in that account is taxable as equipment whose primary purpose is rental and (ii) orders the correction of the assessment made on account EQ001042 for tax year 2025-26 because the Large CAT Equipment included in that account is exempt as equipment held for sale by a merchant.

The County shall adjust the assessment roll and tax statement to conform to this decision of the State Board of Equalization and, to the extent that adjustment results in an overpayment of tax, shall promptly refund the overpayment together with interest to Empire. NRS 361.405.

BY THE STATE BOARD OF EQUALIZATION this ____ day of September, 2026.

Shellie Hughes, Secretary



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

Joe Lombardo
Governor

3850 Arrowhead Drive
Carson City, Nevada 89706
Telephone (775) 684-2160

Shellie Hughes
Secretary

In the Matter of

EMPIRE SOUTHWEST LLC

Petitioner

vs.

ELKO COUNTY ASSESSOR,

Respondent

Case No. 26-112

NOTICE OF DECISION

Appearances

James Susa, Esq. and Dale Huizingh appeared on behalf of the Petitioner, Empire Southwest LLC. ("Empire").

The Elko County Assessor, Janet Iribarne, appeared in person ("Assessor"). She was represented by Gillian Jones from the Elko County District Attorneys' Office.

Summary

After due notice to Empire and Assessor, the matter of Empire's petition for review of personal property valuation for the 2025-2026 Unsecured Tax Roll within Elko County, Nevada, came before the State Board of Equalization ("State Board") for hearing in Washoe County, Nevada, on June 4, 2026, and August 26, 2026.

The State Board heard two related cases filed by Empire; Case 26-111 concerning a personal property assessment made by the Humboldt County Assessor and Case 26-161 concerning a personal property assessment made by the Washoe County Assessor. The issues in Cases 26-111 and 26-161 are the same as the issues raised by Empire in this case. The evidentiary record and arguments made in all three cases have been consolidated for purposes of the Board's deliberations and decision.

Case 26-112 came back before the State Board on September 25, 2026, after due notice to Empire and Assessor, for deliberation and decision.

The State Board, having considered all evidence, documents and testimony hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

- 1) The Board is an administrative body created pursuant to NRS 361.375
- 2) On February 27, 2026, the Elko County Board of Equalization issued a Notice of Decision in Case No. 26-001 denying Empire's petition. *SBE 26-112, Pg 663-664*. On or about March 2, 2026, Empire filed a timely appeal to the State Board. *SBE 26-112, Pg 1-5*.
- 3) Empire and 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) This matter was heard by the State Board on June 4, 2026, and August 26, 2026. The matter appeared under Item IV of the Agendas.
- 5) This matter came back before the State Board on September 25, 2026. The matter appeared under Item V. of the Agenda.
- 6) The Assessor maintains nine Elko County personal property accounts for Empire. Accounts BU000004, BU00005, BU000083, BU056020, BU058653, BU058638, BU220055 and BU240311 are for personal property which was rented on July 1, 2025, while account BU002495 is for furniture, fixtures and equipment which was at Empire's Elko facility on July 1, 2025.
- 7) Empire filed timely personal property declarations for accounts BU000004, BU058638, BU058653, and BU240311 and the assessments were based on the equipment reported on the declarations. No issue was raised regarding these assessments. By unanimous vote, the State Board affirmed the taxable values as assessed for these accounts.
- 8) Empire filed timely personal property declarations for accounts BU000005, BU000083, BU056020, and BU220055 and the assessments were based on the equipment reported on the declarations.
- 9) Empire filed a timely personal property declaration for account BU002495, however, it was not complete. The Assessor made a reasonable estimate of the value of the property and assessed it accordingly. The reason the assessment was incomplete was not due to any "refusal" or "neglect" on the part of Empire. Instead, it was due in large part to a good faith dispute over which property should be reported. The parties have been working together to ensure there has been complete reporting of property. The adjusted acquisition cost of personal property in this account is \$31,797,624.
- 10) Empire is the exclusive Caterpillar ("CAT") dealer for Nevada. It is classified as a business operating under 423810 of the North American Industry Classification System (NAICS").

- 11) Most of Empire's revenue comes from the sale of CAT equipment and parts and the service and repair of CAT equipment. Empire also rents equipment, but revenue from rental activity is less than 15% of its total revenue. This distinguishes Empire from equipment rental companies, such as United Rentals, Sunbelt Rentals, H & E Rentals, and HERC Rentals, which receive over 80% of their revenue from equipment rentals.
- 12) Empire's rental inventory consists of Allied Equipment (non-CAT equipment), Small Cat Equipment¹ and Large CAT Equipment.² The Allied Equipment and Small CAT Equipment are placed in the rental inventory for the useful life of the equipment. Large CAT Equipment does not remain in the rental inventory for the useful life of the equipment.
- 13) Empire includes Large CAT Equipment in the rental inventory (a) to fill the short-term needs of existing clients, (b) to provide customers a chance to 'test drive' the equipment before purchase, and (c) to create low-hour used equipment which Empire can offer for sale at a price competitive with second-tier manufacturers.
- 14) Empire provides its sales staff with a list of equipment available for sale. The list includes both new equipment and the Large CAT Equipment. When the sales staff meet with customers they offer the customer the equipment, whether new or used, which best meets their needs. In this way Empire is actively marketing the Large CAT Equipment.
- 15) Empire's business model encourages the sale of Large CAT Equipment. Since acquisition of the dealership, Empire has placed Large CAT Equipment in the rental fleet. In 2024, 3 of the items of Large CAT Equipment were sold: these items had been in the rental fleet for an average of 6.5 months. In 2025, 6 items of Large CAT Equipment were sold: these items had been in the rental fleet for an average of 1.9 years. The holding period for the Large CAT Equipment is similar to the holding period for similar equipment which is not placed in the rental fleet.
- 16) Empire holds the Large CAT Equipment for dual purposes: the equipment is held for sale and the equipment is held for rental.
- 17) The assessments for accounts BU000005, BU000083, BU056020, BU220055 and BU002495 include Large CAT Equipment. Empire contends the Large CAT Equipment included in these accounts should be exempt under NRS 361.068(1)(a) as personal property held for sale by a merchant.
- 18) Any finding of fact construed to constitute a conclusion of law is adopted as such to the same extent as if originally so denominated.

CONCLUSIONS OF LAW

- 1) Empire timely filed a notice of appeal.

¹ The term "Small CAT Equipment" is a designation used by Empire to refer to certain, lower priced, lighter-duty, CAT equipment included in the rental inventory. Similar equipment is held by Empire in its inventory of new equipment held for sale.

² The term "Large CAT Equipment" is a designation used by Empire to refer to certain, higher priced, heavy-duty, CAT equipment included in the rental inventory. Similar equipment is held by Empire in its inventory of new equipment held for sale.

- 2) Empire has the burden of proof pursuant to NAC 361.741.
- 3) The Findings of Fact are based upon a preponderance of the evidence. NRS 223B.125
- 1) The State Board has authority to determine whether it has jurisdiction to hear a matter. Empire and Assessor are subject to the jurisdiction of the State Board.
- 2) NRS 361.360(4) prevents the State Board from reducing an assessment made by the county assessor if the appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include on its personal property declaration, or the taxpayer has, without good cause, refused entry to the assessor.
- 3) The State Board determined it has jurisdiction to consider the valuation of the property in account BU002495 and that it is not barred from doing so by NRS 361.360(4).
- 4) Nevada imposes an annual property tax on personal property held by a taxpayer on July 1. To facilitate implementation of this tax, property owners are required to file a declaration listing all their taxable personal property. NRS 361.265.
- 5) NRS 361.068(1)(a) exempts personal property held for sale by a merchant from taxation. The statute is silent on the treatment of personal property that is both held for sale and held for rental.
- 6) The Department of Taxation supervises assessment procedures in the various counties and, when appropriate, advises county assessors in the application of those procedures. NRS 360.215(6).
- 7) In Advisory Opinion 23-005 (December 18, 2024) the Department of Taxation addressed the tax treatment of dual-purpose personal property. It advised the Assessors' Association of Nevada that "[w]hen personal property is held both for sale and lease, the taxpayer's primary purpose for holding the personal property will determine whether it is exempt from taxation under NRS 361.068."
- 8) The Large Cat Equipment is dual-purpose personal property. Empire contends that the primary purpose for holding all the Large Cat Equipment is for sale, while the assessor contends the primary purpose for holding all the Large CAT Equipment is rental. Neither position accounts for the fluidity of the situation.
- 9) A taxpayer's purpose in holding personal property may change over time, even from one day to the next. Consequently, the determination of the primary purpose for holding personal property must be made on an annual basis, at the time the taxpayer is filing their declaration.
- 10) The property tax assessed on personal property is a snapshot in time; it is based on property owned by the taxpayer on July 1. The determination of whether the property is exempt should also be made as of that date. The best indicator of Empire's primary purpose in holding dual-purpose personal property is the use to which that property is put on July 1: if the Large CAT Equipment is rented it should be reported as taxable personal

property, if the Large CAT Equipment is not rented but is available for sale, it should be treated as exempt property held for sale by a merchant.

- 11) The State Board affirmed the Assessor's assessments in account BU000004, BU240311, BU058653, and BU058638.
- 12) The Large Cat Equipment included in accounts BU000005, BU000083, BU086020, and BU220055 was rented on July 1, 2025, and consequently, the primary purpose for holding the equipment for tax year 2025-26 is as rental property. Therefore, the assessments for these accounts is affirmed.
- 13) The Large Cat Equipment included in account BU002495 was being held for sale on July 1, 2025, and, consequently, the primary purpose for holding this equipment for tax year 2025-26 is as personal property held for sale by a merchant. Therefore, the Large CAT Equipment included in this account is exempt property for tax year 2025-26 and the assessment for account BU002495 needs to be corrected.
- 14) The foregoing resolves the case before us, but the parties have requested that we also address the applicability of NRS 361.159 and Advisory Opinion 26-003 issued by the Department of Taxation on March 2, 2026.
- 15) NRS 361.159 is not limited to property held by an entity exempt from taxation, it applies to personal property "which for any reason is exempt from taxation." Here, the Large CAT Equipment in account BU002495 is exempt for tax year 2025-26 as personal property held for sale by a merchant and, consequently, NRS 361.159 would apply to the subsequent rental of the property in tax year 2025-26.
- 16) As Advisory Opinion 26-003 notes, under NRS 361.159 when personal property which is otherwise exempt is "leased, loaned or otherwise made available to and used by a natural person, association or corporation in connection with a business conducted for profit, the leasehold interest, possessory interest, beneficial interest or beneficial use of any such lessee or user of the property is subject to taxation."
- 17) NRS 361.159 contemplates an owner/lessor, in whose hands the property is exempt, and a user/lessee who uses the property in a business conducted for profit. The statute authorizes the assessment of an apportioned tax to the user/lessee based on their use of the property. It does not authorize assessment of tax to the owner/lessor.
- 18) Here, the Large CAT Equipment included in account BU002495 is exempt for tax year 2024-25 as personal property held for sale by Empire. If Empire subsequently rents that equipment to a business conducted for profit, a properly apportioned assessment may be issued, pursuant to NRS 361.159, to the business renting the equipment.
- 19) Senate Bill 196 (2025) authorizes heavy equipment rental companies to charge a recovery fee to offset property taxes on their equipment. This legislation does not affect the imposition of property tax or the determination of whether property is exempt. Furthermore, it only applies to "a person who is classified under 532412 or 532310 of the North American Industry Classification System and is primarily engaged in the business of renting heavy equipment." Empire is not classified under 532412 or 532310, nor is it

primarily engaged in the business of renting heavy equipment. Senate Bill 196 simply has no applicability to the issues in this case.

- 20) 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

Based on the above Findings of Fact and Conclusions of Law and a preponderance of the evidence, the State Board hereby (i) affirms the assessments made on accounts BU000004, BU240311, BU058653, and BU058638, (ii) affirms the assessments made in accounts BU000005, BU000083, BU086020, and BU220055 for tax year 2025-26 because the Large CAT Equipment included in those accounts is taxable as equipment whose primary purpose is rental and (iii) orders the correction of the assessment made on account BU002495 for tax year 2025-26 because the Large CAT Equipment included in that account is exempt as property held for sale by a merchant.

The County shall adjust the assessment roll and tax statement to conform to this decision of the State Board of Equalization and, to the extent that adjustment results in an overpayment of tax, shall promptly refund the overpayment together with interest to Empire. NRS 361.405.

BY THE STATE BOARD OF EQUALIZATION this _____ day of September, 2026.

Shellie Hughes, Secretary



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

Joe Lombardo
Governor

3850 Arrowhead Drive
Carson City, Nevada 89706
Telephone (775) 684-2160

Shellie Hughes
Secretary

In the Matter of

EMPIRE SOUTHWEST LLC

Petitioner

vs.

WASHOE COUNTY ASSESSOR,

Respondent

Case No. 26-161

NOTICE OF DECISION

Appearances

James Susa, Esq. and Dale Huizingh appeared on behalf of the Petitioner, Empire Southwest LLC. ("Empire").

Herbert Kaplan from the Washoe County District Attorney's office and Tony Lopez and Howard Stockton from the Washoe County Assessor's office appeared on behalf of the Washoe County Assessor ("Assessor").

Summary

The matter of Empire's petition for review of personal property valuation for the 2025-2026 Unsecured Tax Roll within Washoe County, Nevada, came before the State Board of Equalization ("State Board") for hearing in Washoe County, Nevada, on August 26, 2026, after due notice to Taxpayer and Assessor.

The State Board heard two related cases filed by Empire; Case 26-111 concerning a personal property assessment made by the Humboldt County Assessor and Case 26-112 concerning a personal property assessment made by the Elko County Assessor. The issues in Cases 26-111 and 26-112 are the same as the issues raised by Empire in this case. The evidentiary record and arguments made in all three cases have been consolidated for purposes of the Board's deliberations and decision.

Case 26-161 came back before the State Board on September 25, 2026, after due notice to Empire and Assessor, for deliberation and decision.

The State Board, having considered all evidence, documents and testimony, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

- 1) The Board is an administrative body created pursuant to NRS 361.375
- 2) On or about May 5, 2026, Empire filed a Direct Appeal to the State Board of Equalization pursuant to NRS 361.360(3). *SBE 26-161, Pg 1-6.*
- 3) Empire and 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) This matter was heard by the State Board on August 26, 2026. The matter appeared under Item IV of the Agenda.
- 5) The matter came back before the State Board on September 25, 2026. The matter appeared under Item V. on the Agenda.
- 6) This appeal concerns ten personal property accounts maintained by the Assessor for property owned by Empire in Washoe County.
- 7) Nine of those accounts (accounts 2212804, 2923667, 2923668, 2923669, 2923670, 2923671, 2923672, 2923673 and 2923728) are for equipment that was rented on July 1, 2025. These accounts are referred to collectively as the Empire Rental Accounts.
- 8) The other account, account 2212805, is for all business personal property (i.e., furniture, fixtures and equipment) located at the Empire facility located at 600 Glendale Avenue. The initial assessment for this account did not include Large CAT Equipment but Empire has subsequently filed supplemental reports listing additional equipment at this location.
- 9) Empire is the exclusive Caterpillar (“CAT”) dealer for Nevada. It is classified as a business operating under 423810 of the North American Industry Classification System (NAICS”).
- 10) Most of Empire’s revenue comes from the sale of CAT equipment and parts and the service and repair of CAT equipment. Empire also rents equipment, but revenue from rental activity is less than 15% of its total revenue. This distinguishes Empire from equipment rental companies, such as United Rentals, Sunbelt Rentals, H & E Rentals, and HERC Rentals, which receive over 80% of their revenue from equipment rentals.
- 11) Empire’s rental inventory consists of Allied Equipment (non-CAT equipment), Small Cat Equipment¹ and Large CAT Equipment.² Allied Equipment and Small CAT Equipment

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² The term “Large CAT Equipment” is a designation used by Empire to refer to certain, higher priced, heavy-duty, CAT equipment included in the rental inventory. Similar equipment is held by Empire in its inventory of new equipment held for sale.

are placed in the rental inventory for the useful life of the equipment. Large Cat Equipment does not remain in the rental inventory for the useful life of the equipment.

- 12) Empire includes Large CAT Equipment in the rental inventory (a) to fill the short-term needs of existing clients, (b) to provide customers a chance to 'test drive' the equipment before purchase, and (c) to create low-hour used equipment which Empire can offer for sale at a price competitive with second-tier manufacturers.
- 13) Empire provides its sales staff with a list of equipment available for sale. The list includes both new equipment and the Large CAT Equipment. When the sales staff meet with customers they offer the customer the equipment, whether new or used, which best meets their needs. In this way Empire is actively marketing the Large CAT Equipment.
- 14) Empire's business model encourages the sale of Large CAT Equipment. Since acquisition of the dealership, Empire has placed Large CAT Equipment in the rental fleet. In 2024, 3 of the items of Large CAT Equipment were sold: these items had been in the rental fleet for an average of 6.5 months. In 2025, 6 items of Large CAT Equipment were sold: these items had been in the rental fleet for an average of 1.9 years. The holding period for the Large CAT Equipment is similar to the holding period for similar equipment which is not placed in the rental fleet.
- 15) Empire holds the Large CAT Equipment for dual purposes: the equipment is held for sale and the equipment is held for rental.
- 16) The personal property declarations filed by Empire for both the Empire Rental Accounts and account 2212805 include Large CAT Equipment. Empire contends the Large CAT Equipment in both the Empire Rental Accounts and Account 2212805 should be exempt under NRS 361.068(1)(a) as personal property held for sale by a merchant.
- 17) 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) Empire timely filed a notice of appeal.
- 2) Empire has the burden of proof pursuant to NAC 361.741.
- 3) The Findings of Fact are based upon a preponderance of the evidence. NRS 223B.125
- 4) The State Board has authority to determine whether it has jurisdiction to hear a matter. Empire and Assessor are subject to the jurisdiction of the State Board.
- 5) Nevada imposes an annual property tax on personal property held by a taxpayer on July 1. To facilitate implementation of this tax, property owners are required to file a declaration listing all their taxable personal property. NRS 361.265.

- 6) NRS 361.068(1)(a) exempts personal property held for sale by a merchant from taxation. The statute is silent on the treatment of personal property that is both held for sale and held for rental.
- 7) The Department of Taxation supervises assessment procedures in the various counties and, when appropriate, advises county assessors in the application of those procedures. NRS 360.215(6).
- 8) In Advisory Opinion 23-005 (December 18, 2024) the Department of Taxation addressed the tax treatment of dual-purpose personal property. It advised the Assessors' Association of Nevada that "[w]hen personal property is held both for sale and lease, the taxpayer's primary purpose for holding the personal property will determine whether it is exempt from taxation under NRS 361.068."
- 9) The Large Cat Equipment is dual-purpose personal property. Empire contends that the primary purpose for holding all the Large Cat Equipment is for sale, while the assessor contends the primary purpose for holding all the Large CAT Equipment is rental. Neither position accounts for the fluidity of the situation.
- 10) A taxpayer's purpose in holding personal property may change over time, even from one day to the next. Consequently, the determination of the primary purpose for holding personal property must be made on an annual basis, at the time the taxpayer is filing their declaration.
- 11) The property tax assessed on personal property is a snapshot in time; it is based on property owned by the taxpayer on July 1. The determination of whether the property is exempt should also be made as of that date. The best indicator of Empire's primary purpose in holding dual-purpose personal property is the use to which that property is put on July 1: if the Large CAT Equipment is rented it should be reported as taxable personal property, if the Large CAT Equipment is not rented but is available for sale, it should be treated as exempt property held for sale by a merchant.
- 12) The Large CAT Equipment included in the Empire Rental Accounts was rented on July 1, 2025, and, consequently, the primary purpose for holding this equipment for tax year 2025-26 is as rental property. Therefore, the assessments for these accounts are affirmed.
- 13) The Large CAT Equipment included in account 2212805 was being held for sale on July 1, 2025, and, consequently, the primary purpose for holding this equipment for tax year 2025-26 is as personal property held for sale by a merchant. Therefore, the Large CAT Equipment included in this account is exempt property for tax year 2025-26 and the assessment for account 2212805 needs to be corrected.
- 14) The foregoing resolves the case before us, but the parties have requested that we also address the applicability of NRS 361.159 and Advisory Opinion 26-003 issued by the Department of Taxation on March 2, 2026.
- 15) As Advisory Opinion 26-003 notes, under NRS 361.159 when personal property which is otherwise exempt is "leased, loaned or otherwise made available to and used by a natural person, association or corporation in connection with a business conducted for profit, the

leasehold interest, possessory interest, beneficial interest or beneficial use of any such lessee or user of the property is subject to taxation.”

- 16) NRS 361.159 contemplates an owner/lessor, in whose hands the property is exempt, and a user/lessee who uses the property in a business conducted for profit. The statute authorizes the assessment of an apportioned tax to the user/lessee based on their use of the property. It does not authorize assessment of tax to the owner/lessor.
- 17) Here, the Large CAT Equipment included in account 2212805 is exempt for tax year 2025-26 as personal property held for sale by Empire. If Empire subsequently rents that equipment to a business conducted for profit, a properly apportioned assessment may be issued, pursuant to NRS 361.159, to the business renting the equipment.
- 18) Senate Bill 196 (2025) authorizes heavy equipment rental companies to charge a recovery fee to offset property taxes on their equipment. This legislation does not affect the imposition of property tax or the determination of whether property is exempt. Furthermore, it only applies to “a person who is classified under 532412 or 532310 of the North American Industry Classification System and is primarily engaged in the business of renting heavy equipment.” Empire is not classified under 532412 or 532310, nor is it primarily engaged in the business of renting heavy equipment. Senate Bill 196 simply has no applicability to the issues in this case.
- 19) 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

Based on the above Findings of Fact and Conclusions of Law and a preponderance of the evidence, the State Board hereby (i) affirms the assessments made on the Empire Rental Accounts for tax year 2025-26 because the Large CAT Equipment included in those accounts is taxable equipment whose primary purpose is rental, and (ii) orders the correction of the assessment made on account 2212805 for tax year 2025-26 because the Large CAT Equipment included in that account is exempt as equipment held for sale by a merchant.

The County shall adjust the assessment roll and tax statement to conform to this decision of the State Board of Equalization and, to the extent that adjustment results in an overpayment of tax, shall promptly refund the overpayment together with interest to Empire. NRS 361.405.

BY THE STATE BOARD OF EQUALIZATION this _____ day of September, 2026.

Shellie Hughes, Secretary