

§15-6-218, MCA

Proposal for Amendment

Phil Grate

June 10, 2016

Montana Code Annotated 2015

15-6-218. Intangible personal property exemption.

- (1) Intangible personal property is exempt from taxation.
- (2) For the purposes of this section, "intangible personal property" means personal property that is not tangible personal property and that:
 - (a) has no intrinsic value but is the representative or evidence of value, including but not limited to certificates of stock, bonds, promissory notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises; or
 - (b) lacks physical existence, including but not limited to goodwill.

Montana Supreme Court

GOLD CREEK, 2013

Section 15-6-218(2)(b), MCA, broadly exempts goodwill as a subclass of intangible personal property.

We read § 15-6-218(2), MCA, as a broad statutory tax exemption for all valuable goodwill.



Montana Department of Revenue

December 29, 2014 Memo Re: Intangible Personal Property Deduction Procedure for Centrally Assessed Companies

1. All centrally assessed property receives at least a “**standard deduction**” for IPP from each indicator of value. ARM 42.22.110
 - Airlines 10%
 - Pipelines 5%
 - Electric cooperatives 5%
 - Telephone cooperatives 5%
 - Electric utilities 10%
 - Telecommunications 15%



Montana Department of Revenue

December 29, 2014 Memo Re: Intangible Personal Property
Deduction Procedure for Centrally Assessed Companies

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 - Airlines 10%
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Montana Department of Revenue

2. If a taxpayer believes that the value of its IPP is greater than the standard deduction, they may propose alternative methodology or information at any time during the appraisal process and the department will give it full and fair consideration. ARM 42.22.110

If the department concludes that the IPP value is greater than the standard deduction, the indicators of value, and ultimately the unit value will be adjusted accordingly.



Montana Department of Revenue

3. Our current practice for handling additional deductions for IPP, as discussed in 2, is:
 - Remove all booked IPP from the cost approach.
 - Remove additional IPP from the income and market approaches based on a market to book ratio, (Correlated Unit Market Value / Cost Approach Value * Original Cost of booked IPP).
 - **Booked goodwill is not removed from the income and market approaches as booked goodwill does not affect or otherwise generate income.**

Treatment of Goodwill in Correlated **Unit Value** Calculation

Value Indicators	Approach	Goodwill
Original Cost Less Depreciation	Cost Approach	Removed
Direct Capitalization of Net Operating Income	Income Approach	Included
Direct Capitalization of Gross Cash Flow	Income Approach	Included
Yield Capitalization of Free Cash Flow	Market Approach	Included
Stock and Debt Indicator	Market Approach	Included

Montana Code Annotated 2015

15-6-218. Intangible personal property exemption.

- (3) To the extent that the **unit value** of centrally assessed property includes **intangible personal property**, that **value must be removed from the unit value.**

§ 15-6-218, MCA

Entity	Interpretation
Montana Legislature	(1) Intangible personal property is exempt from taxation. (2) Goodwill is intangible personal property. (3) To the extent that the unit value of centrally assessed property includes intangible personal property, that value must be removed from the unit value .
Montana Supreme Court	“Section 15-6-218(2)(b), MCA, broadly exempts goodwill as a subclass of intangible personal property.” “We read § 15-6-218(2), MCA, as a broad statutory tax exemption for all valuable goodwill.”
Montana Dept of Revenue	“Booked goodwill is not removed from the income and market approaches as booked goodwill does not affect or otherwise generate income.”

Booked Goodwill

- Securities and Exchange Commission (SEC) registrants
- Generally Accepted Accounting Principles (GAAP)
- Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC)
- Included in financial reports audited by a CPA firm
- Reports filed with the SEC

Booked Goodwill

Initial Establishment

- FASB ASC Topic 805, Business Combinations, Subtopic 30, Goodwill or Gain from Bargain Purchase, Including Consideration Transferred, Section 30, Initial Measurement
- Uses “acquisition method” of accounting

Fair value of considera- tion transferred	-	Value of separately identified assets and liabilities at acquisition date	=	Booked goodwill
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Booked Goodwill

Subsequent Measurement

FASB Accounting Standards Codification, Topic 350, Intangibles, Subtopic 20, Goodwill, Section 35, Overall Accounting for Goodwill

- Requires **annual test** for impairment of value.
- Requires write down of impaired goodwill.
- Prohibits write up of booked goodwill.

Clarify the Legislature's Original Intent

- (3) To the extent that the unit value of centrally assessed property includes intangible personal property, that value must be removed from the unit value. **For taxpayers that are United States Securities and Exchange Commission (SEC) registrants, the value of goodwill removed from the unit value of centrally assessed property shall equal the goodwill included in the annual report (Form 10-K) the taxpayer has most recently filed with the SEC.**