

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Paul "Bud" Burke at  
Chairperson

11:00 a.m./~~p.m.~~ on January 18, 1984 in room 526-S of the Capitol.

All members were present ~~XXXXX~~

Committee staff present: Tom Severn, Research Dept.  
Wayne Morris, Research Dept.  
Don Hayward, Revisor's Office

Conferees appearing before the committee:

Don Willis, Vallis/Wngroff Business Forms Inc., Cherryvale  
Bill Ledford, Kansas Small Business Trust, Wichita  
Bill Abbott, Boeing Co., Wichita  
Harry Williford, Boeing Co., Wichita  
Bob Weary, General Counsel for Kansas CATV Association, Junction City  
Peggy Proestos, Lenexa Chamber of Commerce, Lenexa  
Herman Simon, Plant Manager, General Foods Manufacturing Corporation, Topeka

The committee held a hearing on SB 467 which prohibits the use of trended cost factors in property valuation guides used by appraisers to determine the fair market value of business personal property for property tax purposes.

The following appeared in support of SB 467:

Don Willis, co-founder and president of Vallis-Wngroff, noted that their personal property taxes on their equipment increased 59% between 1982 and 1983 after the application of the trending factors to value the equipment. He urged the committee to find a better method to supply our revenue.  
(Attachment #1)

Bill Ledford, Kansas Small Business Trust, told the committee that trending is not a proper or fair method of setting the price of machines for taxing purposes. (Attachment #2)

Bill Abbott introduced Harry Williford, business manager for Boeing Co. He reported to the committee that the aerospace industry is characterized by advanced technology in products and the processes to produce them, and that the failure to consider technological obsolescence in the trending factors emerged as a key factor in their unfairness. He stated he believed depreciated cost is the best guide to fair market value and that trending factors, using the consumer price index comprised of items such as food, clothing and shelter, is completely irrelevant to the fair market value of commercial and industrial property. (Attachment #3)

Bob Weary, CATV, said trending is not working well for them because TV property is being assessed on the basis of what businesses would sell for as a going concern. (Attachment #4)

Peggy Proestos, Lenexa, stated their job is to attract new business and retain and expand the businesses they have, and Lenexa has quadrupled in size and increased industries. Now she is concerned with the trend to increase taxation in Kansas, which she feels is causing companies to move away and out of the state. She said the main criticism of doing business in Lenexa and Kansas was the trend to increased taxes.

Herman Simon, Plant Manager, General Foods, said their reasons for selecting Kansas for their plant are as valid today as when the decision was made to locate here more than a decade ago, except for one thing - taxes. In 1983 General Foods' taxes went up 40%. He said the current tax law, which uses trended cost factors for setting personal property valuation guides, has shifted a disproportionate share of the tax burden on business and industry. (Attachment #5)

The chairman reported that the committee will hold further hearings on SB 467 on Monday, January 30, in order for the other conferees to appear and give their testimony.

The chairman adjourned the meeting at 12:00 noon. The next meeting of the committee will be Tuesday, January 24, 11:00 a.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

ASSESSMENT AND TAXATION

OBSERVERS  
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
JAN. 18	Francis Kastner	Topeka	Ks Food Dealers
	Bob Mason	Topeka, Ks	Highway Fd Assoc
	Bob Folley	Topeka	Folley Inc.
	Nancy S. Hamilton	Lawrence	Gov. Office of Ch of Com
	Marian Hamner	Lawrence	KIVK
	E MULLINS	TOPEKA	BUDGET
	Jack W. Casula	Topeka	Security Benefit of
	Bill Leopold	Channahon	KSBJ
	BO O'Leary	Wichita	KSBT
	CHARLES D. BELT	WICHITA	WICHITA CHAMBER OF COMMERCE
	STEVEN E COX	WICHITA	KSBT
	Ivan W. Wyatt	Mpner	Ks Farmers Union
	TIM HAGEMANN	LAKIN	KLPG
	JANET STUBBS	TOPEKA	HBAK
	Michael C. Germann	"	Ks Railroad Association
	Mel McGuire	Kansas City	Farm Land Ind.
	John Taylor	Coffeyville	Vill Vanguard
	Henry H. Kingman	526 S State Office Bldg	P.V.D.
	DON GORDON	LAWRENCE, KS	KCAA
	Donna E. Olick	Wichita, Ks	<del>KCAA</del>
	Brad Welch	LAKIN, KS.	KCHA
	Vernon Nikkel	Hesston Ks.	Excel Ind. Inc
	Lennea Nikkel	Hesston, Ks	-
	Clarene Welch	Topeka Ks.	WICH MFG. INC.
	Walter Klein Hillman	Topeka, Ks	Hillman Health Svc
	H. Wulford	Wichita	BOEING
	Don Schmitt	Topeka	KLOGA
	Herman R. Simon	Topeka	General Foods
	Christy Young	Topeka	Topeka Chamber







# VALLIS/WNGROFF

BUSINESS FORMS INCORPORATED

P.O. BOX 7 • CHERRYVALE, KANSAS 67335 • PHONE (316) 336-2171

January 17, 1984

My name is Don Willis, co-founder and president of Vallis/Wngroff Business Forms Co., Inc., located in Cherryvale, Kansas.

We started our business in 1964 with four employees - today we have 102 fulltime employees, 82 living in Cherryvale and the other 20 in surrounding communities. Our payroll in 1984 will be close to \$2,000,000.00.

Vallis/Wngroff is locally owned and operated with 94% of our sales generated outside the state of Kansas. With this amount of sales outside the state the trending factors put us in a non-competitive position.

We are a highly capitalized business. In the past three years we have spent over \$2½ million for new equipment. This investment was made necessary by the revolution in computer technology.

Three years ago we produced "unit-set" business forms 100%. Today 45% of the forms we produce are "continuous" business forms. This change in product line requires a heavy investment in high technology equipment.

While much of our equipment is satisfactory for producing the old "unit-set", it is either sized wrong or not cost effective to produce "continuous" forms for computers. Right now we need to replace a \$12,500 piece of typesetting equipment with new laser equipment that will cost over \$225,000.00. We must improve our product through new technology giving our customers more and at a better price than they can get elsewhere.

I am concerned about foreign manufacturers with their sophisticated technology. We have seen watches, cars, cameras, and steel go to the foreign manufacturers when technology lapsed in the United States.

In December 1971 we built a new building and installed lots of new equipment. Our 1972 personal property taxes were \$5792. In comparison our 1983 personal property taxes were \$62,847 - an increase of \$57,055.

Here are some relative comparisons:



MANUFACTURER MEMBER OF NATIONAL BUSINESS FORMS ASSOCIATION

MEMBER



Atch. 1  
1/18/84

The selling price of our product is up	89%
Our hourly wages are up	111%
Number of people employed is up	24%
Total annual sales are up	300%
Personal Property Taxes are up	985%

Our 1982 personal property taxes were \$39,560. Our 1983 personal property taxes are \$62,847. This is a 59% increase in one year.

The trending factors place a high market value on a machine that is possibly mechanically sound while technologically impractical to produce the products we will be selling tomorrow.

I urge you to find a better method to supply our revenue. One that spreads the taxes out among all users of government services.

KANSAS SMALL BUSINESS TRUST  
3258 SOUTH HOOVER WICHITA, KANSAS

Attachment #2

ALAN OAKLEAF / BILL LEDFORD CO-CHAIRMEN

POSITION PAPER

WE APPEAR AT THIS HEARING TO EXPRESS OUR TOTAL DISLIKE OF THE TRENDING FACTORS AS APPLIED TO INDUSTRIAL MANUFACTURING MACHINES AND SUPPORT EQUIPMENT.

TRENDING THE COST OF ANY MACHINE SUBJECT TO MECHANICAL WEAR, CONTROLS OBSOLETE BY TECHNOLOGY CANNOT, IN OUR OPINION BE VALUE ADDED ABOVE ITS ORIGINAL COST. ONLY IN VERY RARE OCCASIONS DOES A MACHINE INCREASE IN VALUE, THIS BEING IN TIMES OF EXTREME SHORTAGES. I HAVE BEEN IN THE BUSINESS 38 YEARS AND ON ONLY ONE PERIOD OF TIME HAS THIS HAPPENED (1979/1980). 1982 REVERSED THIS SITUATION WITH THE SLOW DOWN IN THE INDUSTRY. NOW THERE ARE MANY IDLE MACHINES IN THE STATE, DEPRESSING VALUES BECAUSE OF THE OVERSUPPLY. ALSO MUCH OF THIS MACHINERY IS COMPUTER CONTROLLED AND THE RAPID EVOLUTION IN COMPUTER PROGRAMMING ABILITIES IS FURTHER DEPRESSING THE VALUE OF OLDER COMPUTER DIRECTED AND EVEN OLDER MANUAL MACHINES.

IF WE ACCEPT THE ABOVE STATEMENT AS FACT, TRENDING IS NOT A PROPER OR FAIR METHOD OF SETTING THE PRICE OF MACHINES FOR TAXING PURPOSES.

1982 TRENDING GAVE ECONOMIC LIFE TO MACHINES FAR IN EXCESS OF ITS ACTUAL USEFUL LIFE. THIS WAS CHANGED FOR THE 1983 TAX YEAR TO 7 YEAR LIFE FOR COMPUTER CONTROLLED EQUIPMENT (SEE ENCLOSURE #1 PARA 10, RULING OF BOARD OF TAX APPEALS OF STATE OF KANSAS).

IT IS INTERESTING TO NOTE, MANY MACHINES ARE NOT PURCHASED BY THE USER, BUT LEASED. THESE LEASES ARE GENERALLY FOR A 5 YEAR PERIOD. THEY ARE THEN RETURNED AND NEWER UPDATED EQUIPMENT LEASED. WE HAVE TO DO THIS JUST TO KEEP UP WITH TECHNOLOGY. THE RETURNED MACHINES ARE THEN RELEASED OR SOLD AT BARGAIN PRICES TO THE GARAGE SHOP, THIRD WORLD NATIONS AND THE SCRAP HEAP. IF YOU DOUBT THE OVER SUPPLY OF THESE 5 YEAR OLD MACHINES, CHECK WITH THE PRESENT SUPPLY OF THE LEASING COMPANIES.

REFERING TO EXHIBIT, #2, PARA 1, WE NOTE THIS MACHINE TOOL MANUFACTURER HAS REDUCED ITS PRICE SUBSTANTIALLY. ALSO IN PARA 2 (THE PRICES) WE SEE ACTUAL PRICES HAVE LOWERED BY .02% TO 14.54% AFTER THE DOLLAR EXCHANGE RATE. I NOTICE THEY ARE ASKING THE DISTRIBUTOR TO PARTICIPATE IN ANY LOSS OF PROFIT BY OFFERING "FAMILY" DISCOUNT TO OBTAIN AN ORDER.

OUR ORGANIZATION IS HOLDING ITS ANNUAL POLICY MEETING ON JANUARY 26. WE WILL, AFTER THIS MEETING, FURNISH TO THIS COMMITTEE ITS WRITTEN RECOMMENDATIONS. IT IS MY FEELING, WE WILL BACK "HOUSE CONCURRENT RESOLUTION NO. 5009" WITH THE FOLLOWING CHANGES:

CLASS 3-- CHANGE 10 YEAR PERIOD TO 7  
ADDING-- MANDATORY REAPPRAISAL AT LEAST 1 TIME IN EVERY 10 YEARS

WE WOULD INSIST THE PROPOSED RATIO OF ASSESSMENT BE INCLUDED IN THE AMENDMENT (AS NOW PROPOSED). ALSO CLASS 2(B) (INVENTORIES) BE PHASED OUT IN THE 5 YEAR PERIOD NOTED IN 5009.

Atch. 2  
1/18/84

SMALL BUSINESS IN KANSAS FULLY UNDERSTANDS THE NEED FOR TAXES TO SUPPORT PUBLIC SERVICES. WE ARE NOT ASKING TO EXEMPTED, ONLY THE UNDERSTANDING WE ALSO HAVE NEEDS, THESE BEING FAIR TAXATION AT ALL LEVELS IN DIRECT RELATIONSHIP TO ITEM VALUE. THE INDUSTRIAL HEALTH OF OUR STATE IS AFFECTED IN SOME PART TO THE TAXATION METHODS OF THE STATE.

MANY OF OUR GROUP SERVE ON ADVISORY BOARDS FOR SCHOOLS AND VO-TEC'S WE OFFER THIS SAME SERVICE TO THIS AND ANY OTHER COMMITTEE IN THE SENATE OR HOUSE. YOU WILL FIND IN OUR GROUP KNOWLEDGEABLE AND WILLING PERSONS COVERING THE INTIRE MANUFACTURING AND INDUSTRIAL SUPPLIER SPECTRUM.

THE SMALL BUSINESS OWNERS IN KANSAS OFFER JOB OPPORTUNITIES TO 85 % OF OUR LABOR FORCE. HOWEVER BECAUSE OF OUR SIZE WE GENERALLY CANNOT USE IRB'S WITH THE LOWER INTEREST RATES AND TAX ABATEMENTS OFFERED. KANSAS SMALL BUSINESS TRUST URGES THE ELIMINATION OF THE TRENDING FACTORS.

THANK YOU FOR YOUR KIND ATTENTION AND IF YOU HAVE ANY QUESTIONS I WILL TRY TO GIVE YOU THE ANSWERS NEEDED.

BILL LEDFORD

IN THE MATTER OF THE PROTEST OF  
BRITAIN MACHINE INCORPORATED, et al.  
FOR TAXES PAID FOR THE YEAR 1982 IN  
SEDGWICK COUNTY, KANSAS.

312 - 202 - 9947  
Docket No. 1158-83-PR, et al.  
(See Attached List)

O R D E R

Now, on this 12th day of October, 1983, the above captioned matter comes on for consideration and decision by the Board of Tax Appeals of the State of Kansas.

This Board has conducted several hearings in the above captioned matters, commencing May 24, 1983, and terminating October 4, 1983. The Board, being fully advised in the premises, noting the testimony and evidence presented at all of the hearings, finds and concludes as follows:

1. The Board has jurisdiction over the parties and the subject matter of these proceedings, pursuant to K.S.A. 79-2005.
2. The subject matter of these 1982 tax protest proceedings is commercial personal property owned by the protestants herein and located within Sedgwick County, Kansas.
3. This series of hearings arises out of the application of the 1982 Miscellaneous Personal Property Valuation Guide established by the Director of the Division of Property Valuation for the State of Kansas. Initially, this valuation guide was used by the Sedgwick County Appraiser for the 1982 assessment. Several complaints to the county arose out of the application of this guide to those persons involved in manufacturing and foundry businesses within Sedgwick County. These tax protests arose after subsequent modifications to the 1982 Guide were made by the Sedgwick County Appraiser and approved (as the correction of clerical errors) by the Sedgwick County Commissioners.
4. At the first series of hearings (on May 24-25, 1983) several individual protestants stated they did not wish to have their cases consolidated for the purposes of the Board rendering a decision based upon the "amended" 1982 PVD Guide. Rather, at subsequent hearings held July 19-21, 1983, they presented their cases with testimony given by individuals representing themselves as experts in the field of valuing manufacturing equipment utilized by these taxpayers. None of these individuals giving testimony considered the cost of freight or installation of the equipment. It is necessary in the computation of valuation of such machinery to consider these costs. Most of the appraisals were conducted 15 months after the tax day in question (January 1, 1982). Testimony by the protestants' experts is that the value of this machinery does fluctuate. One witness estimates there is a five year trend to decrease in value. No study was presented in support of this theory. The Board is disinclined to accept the individual appraisals, finding an insufficient factual basis is involved to support these as a fair market valuation.



Commissioners. As such, these valuation changes must be rescinded. See, for example, State, ex rel., v. Dwyer, 204 Kan. 5 160 P.2d 507 (1969).

10. The Board has considered the voluminous testimony of all parties and their witnesses and finds the 1982 Guide, as applied to the protestants' property, resulted in an overassessment for the tax year. Testimony from personnel within the Property Valuation Division is that the economic life of manufacturing equipment (which is computer controlled) was changed from the 15 year general economic life within the manufacturing industry to a seven year economic life in tax year 1983. This recognizes the equipment is subject to a functional obsolescence due to a rapidly expanding computer industry. Additionally, trending factors utilized in the 1983 tax year reflect wholesale values in the consumer price index (rather than retail) and are weighted 15% less, based upon a recognition of the existence of economic and social obsolescence.

*Trending factors to be used*

The Board, therefore, finds that valid tax protests were entered by the parties herein for the 1982 tax year. Further, through the testimony given at these hearings, this area was faced with a depressed market causing some economic, functional and social obsolescence to be in effect for the 1982 tax year. The Board, therefore, finds that the valuation guide as established by the State Property Valuation Director for tax year 1983 (recognizing these market factors and shorter economic lives) should be applied to the protestants' property for the 1982 tax year. The Board will, therefore, order the Sedgwick County Appraiser's office to review the protested property renditions, changing the economic lives of the computer controlled equipment from 15 years to 7 years for the reasons stated above; and, further to utilize those trending factors established in the 1983 Kansas Appraisal Guide for Miscellaneous Personal Property (found at page 2) for all of the personal property contained therein.

11. It is further found that the clerical error assessments of manufacturing and foundry equipment within Sedgwick County, Kansas, which changed their valuation (based upon a modification of the 1982 Kansas Appraisal Guide for Miscellaneous Personal Property) should be rescinded (see paragraph 9 above). The valuations as originally established by the 1982 Guide must be returned to the tax rolls, unless those taxpayers are parties to valid protest proceedings before this Board. Amended tax statements for the 1982 tax year shall be resubmitted to those taxpayers who did not protest. It is noted that upon receipt of the amended tax statement those persons may file protests, pursuant to K.S.A. 79-2005, if they believe their machinery has been the subject of the same economic variances found herein. Proper jurisdiction for a change in assessment will then be obtained, as envisioned by the Kansas Legislature.

IT IS, THEREFORE, BY THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS, CONSIDERED AND ORDERED that the Sedgwick County Appraiser is authorized and directed to review the renditions of the protestants herein and to correct said renditions as to valuation in accordance with the findings and conclusions made above.

1455 Veterans Highway  
Hauppauge, N.Y. 11787  
516-234-7330

January 6, 1984

# 2

Ledford Machine and Gage Lab.  
1542 South Market Street  
Wichita, KS 67211

Attn: Mr. Bill Ledford, President

RE: Price and Product Policy for 1984  
DIXI USA Newsletter No. 3

Dear Bill:

We at DIXI feel that starting sometime in the second half of 1984, there will be a strong recovery in the sale of machine tools. Most products of foreign countries become more and more competitive because of the strong U.S. Dollar. Just due to the difference in the exchange rate between last year and this year, 2.00 against 2.10, we have a price reduction on our machines of about 4.76%. In addition to that, DIXI S.A., Switzerland slightly dropped their prices!

1. The Product Range

DIXI 200 Model (former designation: DIXI 3 S)

This machine remains unchanged and will still be known as a traditional horizontal jig borer with optics (manually operated), or with DIXI-VIDISET PSV 31, 3 axis M.D.I. with memory and digital readout, or with DIXI-VIDI-MATIC 2203 CNC point-to-point and straight cut 3 axes system. This machine cannot perform contouring operations. The positioning of the built-in rotary table, "B" axis or fourth axis, is obtained "optically."

\* → You will note that we <sup>↓ have</sup> could substantially reduce it's price. This makes the 200 model more attractive and competitive to a traditional vertical jig borer, such as the SIP - HAUSER. As you very well know, a horizontal DIXI is much more versatile and universal than a vertical machine, and definitely has comparable, or even better, working accuracy.

DIXI 300 Model

In Asia and Europe, this machine is still our "best seller" for any possible tool room or production applications. We have separate quotations, i.e., 310 with optics manually operated and 300 Series PE for machines ready to be fitted with VIDISET or VIDIMATIC 3 or 4 axes control system. Please note that only the VIDIMATIC 2200 CNC has two axes contouring capabilities. Optionally, three different sizes of automatic tool changers could be fitted to the F 300 machines equipped with the hydraulic tool clamping system.

Letter To Mr. Bill Ledford  
January 6, 1984  
Page Three

also be equipped with DIXI master scales and VIDIMATIC 2200 CNC with absolute measuring system. DIXI remains open to study the adaptation of any other specific CNC system, such as the GE 2000, providing the system meets the requirements of the machine.

DIXI 500 Model

This machine is available as a manually operated jig borer with optics or prepared (Model "PE") for the fitting of a 4 axes automatic control, such as the VIDISET - PSV 42 (M.D.L. system), or the VIDIMATIC 2200 CNC. Both systems are based on high precision DIXI master scales and are now integrated in the pendant control panel. In it's present execution, the machine cannot be fitted with automatic tool and pallet changer. However, DIXI S.A. is presently designing a new 500 with D.C. drives, ATC and Pallet Loading system. Please give us your comments about marketing such large high precision machining centers in the U.S., i.e., strokes, size of table and pallets, R.P.M.'s, moving quill or fixed spindle, etc.

2. The Prices

Although some price increases occurred in Switzerland during the past year on "bought-out" materials and on wages, and despite a substantial increase of software developments on sophisticated machines, DIXI S.A., Le Locle, decided to maintain their actual average price level for a further period of one year.

This means that with the favorable exchange rate and some prices "cut", (for example, DIXI 210 model) on the different DIXI models in 1984, we have a price reduction of max. 19.3% and min. 4.8% if compared with last year's price list!

All Lower  
.0290 to  
14.54%  
Exchange Rate

Please note that the 1984 price list is based on the exchange rate of 1 US \$ = 2.10 Swiss Francs and the cost of installation is not included. However, if requested by the customer, we could quote a "turn-key" installation.

Due to the continuous pressure on sales prices caused by the worldwide economical situation and the reduction of our reasonable profit margin, we ask you to participate more actively with us in absorbing part of the loss incurred in negotiated sales prices. The DIXI group is presently in an excellent economical and financial situation, however, many of our competitors (SiP, DeVlieg, Mitsui-Seiki) and other machine tool builders, not only from Switzerland, are offering any discount to obtain an order and everyone, including DIXI, is considerably suffering because of this situation.

Enclosed you will find a new confidential price list, Reference No. 1.84/20, dated January 1, 1984, of all DIXI machines with main options and accessories.

SESSION OF 1983

SUPPLEMENTAL NOTE ON  
HOUSE CONCURRENT RESOLUTION NO. 5009

As Amended by House Committee on  
Assessment and Taxation

Brief of Resolution\*

H.C.R. 5009 would amend Article 11, Section 1 of the Kansas Constitution to classify the property tax system.

The resolution would provide for the following assessment ratios:

<u>Class</u>	<u>Ratio</u>
Class 1(A) - Public utility real property	30%
Class 1(B) - Industrial, commercial, rail transportation, and motor carrier transportation real property	15
Class 1(C) - Agricultural land valued under use valuation	20
Class 1(D) - Agricultural land except property used for residential purposes	6
Class 1(E) - All other urban and rural real property not otherwise classified (primarily residential property)	8
Class 2(A) - Rail transportation and motor carrier transportation personal property, including motor vehicles	15

\* Bill briefs are prepared by the Legislative Research Department and do not express legislative intent.

Class	R.
Class 2(B) - Inventories of merchants and manufacturers and livestock, with 20 percent of such values exempt the first year classification is implemented, and an additional 20 percent becoming exempt for the next four years so that such property is exempt in the fifth and following years	30
Class 2(C) - Public utility personal property, including motor vehicles, industrial and commercial personal property not otherwise classified, including motor vehicles, mineral products and mineral leasehold interests, and all other tangible personal property not otherwise classified	30
Class 2(D) - Mobile homes used for residential purposes	8
Class 3 - All commercial and industrial and farm machinery. Such machinery is to be valued at its retail cost when new less straight line depreciation over a 10 year period.	15

The resolution would exclude motor vehicles, mineral products, intangibles and grain from the requirement of a uniform and equal rate of assessment and taxation.

If adopted, the resolution would take effect on January 1 of the year following adoption of a bill authorizing the implementation of reappraised values.

### Background

Article 11, Section 1 of the Kansas Constitution currently requires that the Legislature "provide for a uniform and equal rate of assessment and taxation" and authorizes the Legislature to classify and tax separately certain classes of personal property.



The classes and assessment ratios in the resolution are identical to those in 1982 H.C.R. 5030, as amended by the House Committee during the 1982 Session. The Committee has also recommended a bill ordering the gathering of reappraised values by 1987 (see S.B. 275).

**BOEING**

Attachment #3

**BOEING MILITARY AIRPLANE COMPANY**

A Division of The Boeing Company  
Wichita, Kansas 67210 . Seattle, Washington 98124

January 13, 1984

Kansas State Legislature  
Senate Committee on Assessment and Taxation  
Mr. Chairman:  
Members of the Committee:

I am Harry Williford, Director of Business Management, Boeing Military Airplane Company, Wichita. The Boeing Company is pleased to have this opportunity to share our experience and concerns on the use of Trending Factors to value machinery and equipment.

The aerospace industry is characterized by advanced technology in products and the processes to produce them. Things change rapidly. Technological obsolescence is a major impact on the product design/life.

Our initial review of the change to Trending Factors raised major concerns in our minds. We brought in a property valuation consultant to help us. Technological obsolescence emerged as a key factor. Our local assessor was open to reviewing with us our documentation and evaluation methods. We are satisfied with the results of that appraisal process.

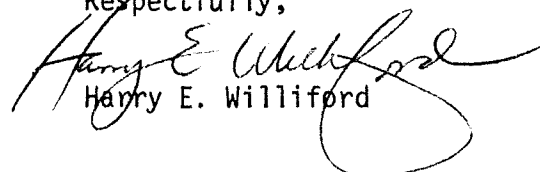
None-the-less, I believe there is a major flaw in the structure of trending factors. Trending factors utilize the consumer price index. This index is structured to measure the cost of living for an average family. It is comprised of such items as food, clothing, shelter and recreation. This index is completely irrelevant to the fair market value of commercial and industrial property. Other indexes such as those in the "Producer's Price Index" series of the Bureau of Labor Statistics, while seemingly appropriate to the valuation of commercial and industrial property, are also flawed.

The principal problem is that the continually improving productivity of capital equipment is not considered. (It is not the purpose of the BLS index series to measure productivity changes.) The prices of a given type of equipment may be inflating because of increased capability. This type of index increase accelerates the obsolescence of older equipment and therefore should reduce rather than increase its fair market value.

Let's take milling machines as a general example. We owned many single spindle machines. Then we obtained numerically controlled single spindle machines. They cost more because of the numerical controlled devices, but were more productive. Now we have two spindle and three spindle milling machines, numerically controlled, with robotic devices that change the chuck. They cost lots more and are lots more productive. Their increased cost can be considered a measure of the technological obsolescence of the older machines, rather than price escalation of milling machines as generated by trending factors approach.

Depreciated cost is still the best single guide to fair market value. The introduction of price indexes tends to overstate the fair market value of our property in the long run.

Respectfully,

  
Harry E. Williford

Atch. 3  
1/18/84

Before the Kansas Senate Committee  
On Assessment & Taxation

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Hearings on the Use of Trending Factors  
on Value Machinery & Equipment  
Wednesday, January 18, 1984

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Presentation by the Kansas CATV Association  
Richard Thiessen -- President  
Robert K. Weary -- General Counsel and Presenter

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Prepared by:

WEARY, DAVIS, HENRY,  
STRUEBING & TROUP  
819 North Washington Street  
Post Office Box 187  
Junction City, Kansas 66441  
(913)-762-2210  
General Counsel for  
the Association

*Atch. 4*  
*1/18/84*

LIST OF EXHIBITS

- Exhibit "A".....Department of Property Valuation  
Trending Factors and Guidelines
- Exhibit "B".....Memorandum to County Appraisers
- Exhibit "C".....I.R.S. Rev. Proc. 83-35
- Exhibit "D".....Trending Factor Study prepared  
by Wm. Gary Baker, Ph. D.
- Exhibit "E".....Useful Life and Salvage Value of  
Used Cable Television Equipment
- Exhibit "F".....Portions of depositions of John  
Cooper and Henry Kingman

## INTRODUCTION

The Kansas CATV Association is a voluntary association of cable television companies in the State of Kansas. The association represents over 100 cable television companies serving communities in every county in the state. Although there are some larger multiple system owners in the State, the majority of cable television companies are small, single system operations that are owned locally and operated by people who live and work in the communities they serve.

In 1983, the Director of Property Valuation arbitrarily instituted changes in the system of valuing cable television tangible, personal property which has the immediate effect in many cases of doubling the amount of personal property taxes for cable companies. Not only are the changes arbitrary, they have no logical basis in the actual operation and experience of Kansas cable companies and therefore violate statutory mandates for valuing tangible, personal property.

The Association feels so strongly that the changes are arbitrary and unlawful that it, together with several individual companies, are presently seeking redress before the State Board of Tax Appeals. The Association welcomes the opportunity to testify before this Committee and hopes that this testimony will be helpful in selecting a fair and reasonable system of taxation for business tangible, personal property.

## THE PRESENT SITUATION

For nearly 15 years pursuant to an informal agreement, with the Director of Property Valuation (DPV), cable companies have voluntarily followed a system of valuing their tangible, personal property based on the historical cost of such property decreased by a factor for depreciation. A more detailed explanation of this system is discussed later.

In late 1982, the DPV notified the Association and key people in the industry that they wished to review and possibly change the current system to one using trending factors. The Association met with the DPV in order to provide information and hopefully reach mutually agreeable changes to the system of valuing such property if it seemed that a change were necessary or would be helpful.

The Association's efforts were given short shrift by the DPV and it has since become apparent that the DPV had made up its collective mind before even contacting the Association.



DPV indicated to the Association that, to the cost of any given item of tangible property, DPV wanted to assign a uniform economic levy based on the Internal Revenue Service ADR guidelines and then apply a "trending factor" based on the All Items Category of the Consumer Price Index.

Initially the DPV issued the trending factors and guidelines reflected in Exhibit "A". After the deadline for filing personal property tax reports, DPV issued, on May 1=2, 1983, a directive to county appraisers revising the guidelines and setting forth the economic lives to be used for cable television property. The directive is attached as Exhibit "B". Contrary to the statements of DPV that the directive was based on I.R.S. guidelines, DPV used economic lives much longer than those suggested by the I.R.S. The I.R.S. ADR guidelines are attached as Exhibit "C".

To these economic lives, the DPV applied a trending factor based on the Consumer Price Index, All Items Category which takes into account the general inflationary trends nationwide. The trending factors adopted are reflected in Exhibit "A".

The purpose of assigning an economic life and using trending factors is to arrive at a fair market value of any given item of personal property. The Kansas statutes mandate that personal property taxes are to be based on the fair market value of property which is defined as what a willing Buyer would pay for the tangible personal property from a willing seller, both having negotiated at arm's length and neither party being under any kind of compulsion to either buy or sell. The Association realizes further that it would be difficult for county appraisers to individually appraise each item of tangible, personal property owned by a business and that it would be helpful if a statewide, uniform and reasonable system could be devised to value such property.

However, the economic lives and trending factors used by DPV grossly overstate the fair market value of cable television equipment and were not devised as a uniform system of valuing tangible, personal property but rather were developed arbitrarily to arrive at a pre-determined level of taxation which attempts to value more than items of tangible, personal property -- that is, to tax cable television systems on the basis actual market value of what they would sell for as a going business and not on the basis of items of tangible personal property utilized in the business.

There are two important considerations in the use of trending factors for property tax purposes. The first of these is the applicability of the particular trending factor selected to the industry and type of property involved and the other is the

economic life assigned to the various types of machinery and equipment. The latter of these two probably has the greatest impact upon the taxation of the property and for this reason we will analyze it first.

Originally the DPV in their guidelines issued before the assessment date prescribed for twenty year life of towers and antennae, a fifteen year life for cable, and a seven year life for all other equipment. Apparently they felt this did not produce as much in the way of taxes as they wanted to obtain, and hence quite a while after the returns were due the DPV sent out a notice of updated economic lives adopted by the department. In so doing they broke the property down into three categories, headend, subscriber connection and distribution systems, and program origination equipment. These three categories were described exactly as they are described in the I.R.S. ADR guidelines but instead of using the lives prescribed by the I.R.S. guidelines for the first two categories which include the bulk of the equipment of a cable television system, the DPV assigned a twenty year life to the headend equipment and a fifteen year life to the subscriber connection and distribution system.

The economic lives assigned to cable television property by the I.R.S. ADR guidelines as shown in Exhibit "C" have been developed by the I.R.S. over a number of years and are calculated to accurately reflect the true economic life of any particular piece of equipment. The ADR assigns both a lower and upper limit life and a mid range life. This is a reasonable approach in light of the fact that different types of equipment are involved and the fact that the economic life of even two similar pieces of equipment can vary depending upon such factors as quality of construction, use and the like. As has been noted for cable television property commonly referred to as the headend which, with the exception of the tower and headend building, consists entirely of electronic gear (and is that part of the cable television system that brings the signal to the community off the air, from microwave or satellites) the DPV arbitrarily assigned a flat twenty year economic life. This is some nine years (almost 100%) longer than that used by the I.R.S.

An economic life of twenty years for processors, modulators, receivers, amplifiers and other similar kinds of electronic equipment is unreasonably long. Experience in the industry is that most, if not all, of this kind of equipment rarely lasts ten years. The reason for this is two fold. First, this kind of equipment simply wears out and becomes unuseable generally within five to ten years of purchase without excessive maintenance and replacement costs. Second, as it true of virtually all kinds of electronic equipment, there are continual and fast technological advances and innovations which make existing equipment obsolete. For example, in the industry a similar

amplifier which is smaller and easier to handle and install and which performs a number of additional tasks not performed by the old amplifier and which has a much greater degree of reliability. Because of rapid technological advancements and programming changes, the industry is constantly having to upgrade and update its electronic equipment. Once the older amplifier is replaced it essentially has very little useful life or salvage value left because it is an outmoded and outdated piece of equipment. Attached As Exhibit "E" is an example of the distorted valuations yielded by present guidelines, based upon actual figures of a typical Kansas cable television company.

Therefore, arbitrarily assigning a twenty year economic life to all kinds of headend equipment solely to arrive at a predetermined result fails to take into account the nature of the industry and equipment involved and therefore is not representative of the true market value of this kind of tangible personal property.

This same analysis holds true with regard to cable television property commonly referred to as the subscriber connection and distribution system. The DPV has assigned an economic life of fifteen years for such equipment which consists of cable, amplifiers and other equipment used to deliver cable television signals to individual homes. The I.R.S. guidelines assign a lower limit life of eight years and a maximum of twelve with a mid range of ten. Again the DPV economic life is substantially higher (50%) than that used by the I.R.S.

During attempts to negotiate with the DPV regarding changes in the system, the cable industry was told that the state was planning to use and adopt and in fact had relied on the I.R.S. guidelines. In May, 1983, when the DPV belatedly announced the much longer economic lives (which it regards as clarifying materials), the cable industry was naturally puzzled as to why the DPV had assigned substantially longer lives to the equipment that used by the I.R.S.

In preparing for the upcoming hearings before the Board of Tax Appeals, we have discovered that the economic lives assigned to cable television property by DPV bear no relationship to the experience in the industry as to the life of equipment and further such lives were arbitrarily assigned to support an unlawful method of valuing cable television property.

It is our understanding in this regard that the DPV wants to value cable television companies for personal property tax purposes at \$300 per subscriber. Thus, taking a small system that has only 1,000 subscribers, the DPV wants to value that system for tax purposes at approximately \$300,000. This valuation is apparently based not on what the DPV thinks is the

fair market value of the equipment and tangible personal property used in the business but on what they regard as a low approximation of what the business could be sold for as a going concern.

The Kansas Personal Property Statutes provide for the taxation of only tangible personal property and do not provide for taxation based upon the sale value of a business as a going concern. A large part of the value of a cable television system sold as a going concern must be attributed to intangible property or value such as the franchise from the city, goodwill, programming, management experience and a capability, market size and relationship to programming sources, competitive factors in a given market place, the degree of saturation or development of the system, and a multiplicity of other factors. Kansas Personal Property Statutes dealing with the taxation of tangible personal property do not provide for taxing these intangibles. Therefore attempting to value a system on this basis, and interpolate that to a figure of so much per subscriber, is clearly not within the mandate of the Kansas statutes and does not even attempt to arrive at the value of the system's tangible personal property.

The DPV has admitted in its depositions that in order to support a value of approximately \$200 to \$250 per subscriber, it has simply used or backed into an economic life which if applied to average mix of cable television property would achieve this predetermined result. Therefore, in assigning the economic lives used by the DPV no real thought was given or effort made to determine the real life of the tangible personal property itself or the experience in the industry with respect to the useable, economic life of such property. Furthermore, this approach makes no effort to take into account or factor out the intangible aspects of a cable television business sold as a going concern. Thus the economic lives selected were simply a subterfuge on attempting to justify an otherwise unlawful method of valuing cable television tangible personal property.

A stark example of the complete unfairness of this approach is easily demonstrated by looking at other communications media. Not too long ago the Wichita Eagle sold for a price of \$42,000,000. We have not taken the opportunity to check and see at what value the tangible personal property of the Wichita Eagle is assessed. However, from checking with the industry sources we have determined that if all of the equipment utilized in the business were replaced it would not exceed \$5,000,000 in cost. If the DPV were correct in its analysis that it could value the tangible personal property of a business based on the sale of a business as a going concern, the property of the Wichita Eagle should be on the tax rolls at \$42,000,000. Similarly, there were recent reported sales of television broadcast stations in Wichita for amounts in excess of \$13,000,000 and in

Kansas City for approximately \$80,000,000. Again, it would be impossible to spend more than \$5,000,000 on the tangible personal property of such broadcast stations. Yet, if the legal analysis of the DPV were correct the property of the stations should be on the tax rolls at approximately \$30,000,00 and \$80,000,000 respectively. The same situation would be true with respect to the sales of radio stations. Not only is this form of taxation of tangible personal property not authorized by the Kansas statutes but to tax one communication medium on the basis proposed by the DPV, whereas all of the others are taxes in the traditional and accepted way, would be grossly discriminatory. When this issue was raised with the DPV the only response was that television stations and newspapers ought to be taxed on the basis of what they would sell for and that they just had not gotten around to proposing to tax them this way yet. Perhaps the real reason is that it may be a little easier to pick on a lot of small cable television operators than it is upon the entrenched representatives of the mass media. We would hope, however, that it is still a little difficult for the government to abandon the fundamental precept that what is fair for one is fair for all.

The second matter to be considered is the trending factor shown in Exhibit "A". The trending factor is supposed to take into effect appreciation of the sales value of the asset from inflation, if any, and, depreciation as the asset becomes older. The trending factors are multipliers based upon a consumer or user price index. The goal of using a trending factor is again to arrive at a fair market value of any particular piece of equipment or machinery. The actual effect of using the trending factor selected by the DPV with regard to cable television property, and especially the electronic equipment associated therewith, is to produce a value which is much higher than the fair market value of any given piece of cable television equipment as experienced by the industry in Kansas, not only because of the arbitrary lives selected by the DPV but also because the trending factor is an inappropriate one for the industry.

The trending factors used by DPV are based upon the All Items Category of the Consumer Price Index. This particular index is a compilation of all of the various and separate price indexes maintained by the United States Department of Labor. Accordingly, it mixed together diverse factors such as the price of food, the price of new automobiles, the price of housing, interest rates, fuel, and many others. This general index for the last several years has been a very inflationary index.

Using a trending factor based on this general index does not fairly reflect the fair market value of tangible personal property belonging to cable television companies. The reason for this is that the vast majority of cable television property is electronic in nature or at least has electronic components.



As we have all seen, for a number of years the price of electronic equipment has not been inflating but deflating. Therefore its fair market value is not truly represented by a trending factor based on a general consumer price index. BEcause of rapidly advancing technology in transistors, micro processing, circuitry, memory and storage capabilities and other components of electronic equipment, existing equipment becomes obsolete very quickly and is replaced by more sophisticated equipment which often times costs less than the original piece of equipment. In addition, once the original piece of equipment is replaced, it is economically obsolete and generally has very little salvage or resale value because someone in the market for such equipment can generally buy something better or at least something that will perform more functions at the same or a lesser cost.

Therefore, the DPV trending factors produce the absurd result of assigning to a piece of cable television equipment which is functionally and technologically obsolete a value which no one would be willing to pay. The goal of using trending factors is to arrive at a uniform system of assigning a fair market value. The application to cable television property of a trending factor which is based on a general price index does not arrive at a fair market value because it does not take into account the rapid physical and functional depreciation and obsolescence that occurs in property of an electronic nature. A more appropriate trending factor would be one based on the Standard Industrial Classification categories for Semiconductors and Related Devises (SIC 3674), Electronic Capacitors (SIC 3675), Electronic Resistors (SIC 3676) and Electronic Connectors (SIC 3678). See attached Exhibit "D" for a study which shows that this index is the more appropriate to use.

#### C O N C L U S I O N

For a number of years prior to 1983 and the changes made by the DPV, cable television companies in Kansas uniformly reported for property tax purposes their tangible personal property pursuant to a plan based on historical cost less straight line depreciation with a minimum residual value. This is a method still currently used and recommended by the DPV in many situations. This plan had been worked out with the DPV and was being used statewide by nearly all cable television companies. The plan was easy for the various county appraisers to use and was being used uniformly throughout the state with good results. The plan was one that was easy to monitor since balance sheets and equipment accounts were supplied to the DPV and could be verify comparison with the company's income tax returns. We are not aware of any other industry in the State that has offered this kind of cooperation with the DPV.

In lieu of this reasonable arrangement, used by Kansas with respect to most businesses, the DPV has selected and is

attempting to apply trending factors that bear very little relation in many instances to the industry involved but simply represent the most inflationary trending factor that could be used. Then in the case of the cable television business it has, without any authorization from the legislature, gone a step further and decided that it should tax cable television systems on the basis of their sale value as a going concern. In order to accomplish this, the DPV has arbitrarily assigned economic lives, without regard for the facts or even much of an attempt to investigate the facts, which mathematically would produce the desired result, i.e. arrive at an approximation of what the DPV conceived to be a conservative or low value of the sales price of a cable television system sold as a going concern. These economic lives arbitrarily arrived at are far in excess of the economic lives developed by the I.R.S. as a result of substantial investigations. They are also economic lives that have no relationship to the real world and experience of the industry in light of its particular needs and type of property. Finally, it is a process the DPV apparently has no serious intention of applying to other communications businesses and thus discriminates against the cable television industry.

Therefore we urge the Kansas Legislature to either abolish the use of trending factors or establish some sort of guidelines or directives that would preclude the DPV from arbitrarily and unfairly seeking to subvert our taxing statutes. We submit that changes in the impact of our taxing statutes are matters for legislature and not for the DPV through indirection or by any other method.

The cable television industry thinks that the most reasonable and fair method of taxing cable television tangible personal property is to continue with the system that has worked for a number of years in the cable industry and which is being used by most states. That system is to base such value on the historical cost of the equipment and then annually apply to that historical cost a straight line-type depreciation factor and further to prescribe a residual value below which a particular piece of property will not go as long as it is in service. Such a method of valuing machinery and equipment is not subjective, can be uniformly and easily applied and also has the advantage of producing a value which closely approximates the fair market value of such machinery and equipment.



DEPARTMENT OF REVENUE

State Office Building  
TOPEKA, KANSAS 66625

M E M O R A N D U M

DATE: January 25, 1982  
TO: All County Appraisers  
FROM: Philip W. Martin, Director  
Division of Property Valuation  
RE: Trending Factors

Trending factors have been published in the Miscellaneous Personal Property Guide since 1978 and represent the policy of this Division regarding the valuation of personal property which is not included in any other guide prepared or prescribed by the Division of Property Valuation.

The use of these factors is necessary unless adequate market information is available to you for the purpose of estimating market value of the property for ad valorem taxation and unless the resultant valuation by use of the trending factors clearly results in an over statement of the market value of the property.

In using this method, care must be taken to select the appropriate economic life table for the specific property. Secondly, an inventory of the machinery, equipment, and fixtures comprising the property must be made and analyzed before the correct economic life can be determined and applied.

We recognize that this cannot be accomplished overnight, but must be done on an on-going continuous program. If we may be of assistance to you, please let us know.

PWM:JRC:skb

EXHIBIT A

## CABLE TV SYSTEMS

There is a total of 151 systems in Kansas serving 198 communities with 328,800 subscribers. For uniformity in valuing these systems the trending factors are to be applied to the historical cost on the following economic lives:

Tower and Antennas	20 years
Cable	15 years
All other in house equipment associated with the system	7 years

## TELEPHONIC EQUIPMENT

Because of a change in Federal laws many users of telephone equipment are purchasing instead of leasing from telephone companies.

The trending factor should be applied to historical cost using a 10 year economic life.

EXHIBIT A



*Kansas*  
DEPARTMENT OF REVENUE

State Office Building  
TOPEKA, KANSAS 66625

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MEMORANDUM

TO: County Appraisers  
FROM: John R. Cooper, Supervisor  
Personal Property Section  
DATE: May 2, 1983  
SUBJECT: Updated Economic lives adopted by the department to be applied  
in conjunction with Section 3 of Cable TV Form PP-12

Headend . . . . . 20 Year Economic Life  
Includes assets such as towers, antennas, pre-amplifiers, converters, modulation equipment, and program non-duplicating systems. Does not include headend buildings and program origination assets. Includes microwave equipment.

Subscriber connection and distribution systems . . . . 15 Year Economic Life  
Includes assets such as truck and feeder cable, connecting hardware, amplifiers, power equipment, passive devices, directional taps, pedestals, pressure taps, drop cables, matching transformers, multiple set connector equipment, and converters.

Program origination . . . . . 7 Year Economic Life  
Includes assets such as cameras, film chains, video tape recorders, lighting, and remote location equipment excluding vehicles. Does not include buildings and their structural components. Includes testing equipment tools.

JRC:jd

EXHIBIT B

# Internal Revenue bulletin

## Highlights of this Issue

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

### INCOME TAX

Rev. Rul. 83-78, page 5.

**Industrial development bonds; exempt facilities; some other similar official action.** The adoption by a city of a resolution to issue bonds to finance construction of an exempt facility described in section 103(c)(4) of the Code followed by the adoption of a supplemental resolution to issue the bonds in a larger face amount because of a construction cost overrun are considered some other similar official action taken before construction commenced as required by section 1.103-8(a)(5)(iii) of the regulations. Therefore, the bonds qualify as obligations to provide exempt facilities described in section 103(b)(4) and the interest on the bonds is excludable from gross income.

Rev. Rul. 83-79, page 7.

**Protective claims; FICA tax overpayment.** An employer's timely filed protective claim for refund of FICA tax will also protect its employees' individual claims filed after the period of limitations has expired.

Rev. Proc. 83-35, page 54.

**Class Life Asset Depreciation Range (CLADR) System; guidelines.** Asset guideline classes, asset depreciation periods and ranges, and the annual asset guideline repair allowance percentages for the CLADR System are set forth. Rev. Procs. 77-10, 77-14, 78-4, 78-5, 79-26, 79-35, 79-41, 79-42, 79-60, 79-64, 79-65, 80-15, 80-33, 80-58, and 82-67 superseded.

Finding Lists begin on page 107.  
Announcement of Suspensions on page 104.  
Announcement of Notice of Proposed Rulemaking on page 105.

Department of the Treasury  
Internal Revenue Service

KANSAS UNIVERSITY  
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DOCUMENTS DEPOSITORY

LR-100-78, page 83.

Proposed amendments to the regulations under sections 901 and 903 of the Code relate to the description of income, war profits, and excess profits taxes and taxes in lieu of such taxes imposed by foreign countries and possessions of the United States. The proposed regulations also relate to the amount of these foreign taxes paid or accrued to the foreign country or U.S. possession which are creditable against U.S. income tax liability.

### EMPLOYEE PLANS

Rev. Proc. 83-36, page 72.

**Rulings and determination letters; employee plan and exempt organization matters.** Procedures are provided for issuing rulings and determination, opinion, notification, and information letters and for entering into closing agreements on specific issues in employee plan and exempt organization matters. Rev. Proc. 80-24 superseded; Rev. Procs. 76-47 and 80-39 modified.

### EXEMPT ORGANIZATIONS

Rev. Proc. 83-36, page 72.

**Rulings and determination letters; employee plan and exempt organization matters.** Procedures are provided for issuing rulings and determination, opinion, notification, and information letters and for entering into closing agreements on specific issues in employee plan and exempt organization matters. Rev. Proc. 80-24 superseded; Rev. Procs. 76-47 and 80-39 modified.

(Continued on page 4)

EXHIBIT C

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## Part III. Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund credit, or abatement; determination of correct tax liability. (Also Part I, Section 167; 1.167(a)-11.)

### Rev. Proc. 83-35

#### SECTION 1. PURPOSE

.01 The purpose of this Revenue Procedure is to restate, pursuant to section 167(m) of the Internal Revenue Code of 1954 with certain substantive modifications as noted below, the asset guideline classes, asset guideline depreciation periods and ranges, and annual asset guideline repair allowance percentages for the Class Life Asset Depreciation Range (CLADR) System. For purposes of defining the classes of recovery property under the Accelerated Cost Recovery System (ACRS), section 168(c)(2) of the Code makes reference to the present class life for the property. The present class life is the asset guideline period (midpoint class life) established for the class as of December 31, 1980, except for asset guideline class 48.12. Asset guideline class 48.12 is effective on January 1, 1981. See section 168(g)(2) of the Code.

.02 The Class Life Asset Depreciation Range (CLADR) System cannot be elected for recovery property (within the meaning of section 168 of the Code) placed in service after December 31, 1980. See section 167(m)(4) of the Code, which was added by the Economic Recovery Tax Act of 1981 (H.R. 4242, 97th Congress; Public Law 97-34). In addition, Public Law 97-34 repealed section 263(e), Reasonable Repair Allowance, for property placed in service after December 31, 1980.

.03 This Revenue Procedure supersedes Rev. Proc. 77-10, 1977-1 C.B. 548, and the supplements and revisions of the asset guideline classes, periods, and repair allowance percentages published since the publication of Rev. Proc. 77-10. These Revenue Procedures are as follows:

77-14, 1977-1 C.B. 571  
78-4, 1978-1 C.B. 555  
78-5, 1978-1 C.B. 557  
79-26, 1979-1 C.B. 566

79-35, 1979-2 C.B. 498  
79-41, 1979-2 C.B. 506  
79-42, 1979-2 C.B. 507  
79-60, 1979-2 C.B. 574  
79-64, 1979-2 C.B. 579  
79-65, 1979-2 C.B. 579  
80-15, 1980-1 C.B. 618  
80-33, 1980-2 C.B. 768  
80-58, 1980-2 C.B. 854  
82-67, 1982-52 I.R.B. 54

#### SEC. 2. RULE OF APPLICATION

.01 The asset guideline classes, asset guideline periods and ranges, and annual asset guideline repair allowance percentages set forth are for use under the rules set forth in section 1.167(a)-11 of the Income Tax Regulations.

.02 It should be noted that the following special rules apply as specified:

(i) It is expressly provided that asset guideline classes and subclasses 00.4, 20.5, 30.11, 30.21, 32.11, 33.21, 34.01, 37.12, 37.32, 37.33, and 49.121 are part of existing activity classes to which the assets included in them relate as stated in the revenue procedures establishing these subclasses; therefore, assets included in these classes and subclasses are not separately subject to possible exclusion from an election to apply sections 1.167(a)-11(b)(4)(ii) and 1.167(a)-11(b)(5)(v) of the Income Tax Regulations.

(ii) If the asset guideline class repair allowance for class 32.1 is elected in accordance with section 1.167(a)-11(d)(2)(ii) of the regulations, "cold tank repairs", including refractory relining expenditures to glass furnaces, shall be treated as deductible repairs within the provisions and limitations of section 1.167(a)-11(d)(2)(iv)(a) dealing with the application of the asset guideline class repair allowance.

(iii) General rebuilding or rehabilitation costs for the special tools defined in class 30.11 that have been traditionally capitalized as the cost of a new asset are included in class 30.11.

(iv) Asset guideline class 00.3, "Land Improvements", includes "other tangible property" that qualifies under section 1.48-1(d) of the

regulations. However, a structure that is essentially an item of machinery or equipment or a structure that houses property used as an integral part of an activity specified in section 48(a)(1)(B)(i) of the Code, if the use of the structure is so closely related to the use of the property that the structure clearly can be expected to be replaced when the property it initially houses is replaced, is included in the asset guideline class appropriate to the equipment to which it is related.

.03 Property that is used predominantly outside the United States may be eligible property if the requirements of section 1.167(a)-11(b)(2) of the regulations are met. In the case of property first placed in service and used predominantly outside the United States during the taxable year of election, an asset guideline period, but no asset depreciation range is in effect. Accordingly, such property shall not be treated as included in the same asset guideline class as property used predominantly inside the United States for purposes of determining the asset depreciation period under section 1.167(a)-11(b)(4). Thus, for this purpose, each asset guideline class described in this revenue procedure has an exact counterpart that consists of property otherwise includable within the class, but used predominantly outside the United States during the taxable year of election. Generally, for this purpose, property is used predominantly outside the United States if such property is physically located outside the United States during more than 50 percent of days of the taxable year of election, beginning with the date the property is first placed in service. However, there are ten exceptions to this general rule and these are contained in section 48(a)(2) of the Code. The asset depreciation period for property, which is determined in the taxable year of election, will not be changed because of a change in predominant use after the close of such taxable year. Although treated as in a separate class for purposes of determining the asset depreciation period, property predominantly used outside the United States

Asset guide- line class	Description of assets included	Asset depreciation range (in years)			Annual as- set guide- line repair allowance percentage
		Lower limit	Asset guideline period	Upper limit	
48.2	<b>Radio Television Broadcastings:</b> Includes assets used in radio and television broadcasting, except transmit- ting towers ----- Telegraph, Ocean Cable, and Satellite Communications (TOCSC) Includes communications-related assets used to provide domestic and international radio-telegraph, wire-telegraph, ocean-cable, and satellite communications services; also includes related land improvements.	5	6	7	10
48.31	<b>TOCSC-Electric Power Generating and Distribution Systems:</b> Includes assets used in the provision of electric power by generation, mod- ulation, rectification, channelization, control, and distribution. Does not include these assets when they are installed on customer's premises ----	15	19	23	—
48.32	<b>TOCSC-High Frequency Radio and Microwave Systems:</b> Includes assets such as transmitters and receivers, antenna supporting struc- tures, antennas, transmission lines from equipment to antenna, transmitter cooling systems, and control and amplification equipment. Does not in- clude cable and long-line systems -----	10	13	15.5	—
48.33	<b>TOCSC-Cable and Long-line Systems:</b> Includes assets such as transmission lines, pole lines, ocean cables, buried cable and conduit, repeaters, repeater stations, and other related assets. Does not include high frequency radio or microwave systems -----	21	26.5	32	—
48.34	<b>TOCSC-Central Office Control Equipment:</b> Includes assets for general control, switching, and monitoring of commu- nications signals including electromechanical switching and channeling ap- paratus, multiplexing equipment, patching and monitoring facilities, in- house cabling, teleprinter equipment, and associated site improvements	13	16.5	20	—
48.35	<b>TOCSC-Computerized Switching, Channelling, and Associated Control Equipment:</b> Includes central office switching computers, interfacing computers, other associated specialized control equipment, and site improvements -----	8.5	10.5	12.5	—
48.36	<b>TOCSC-Satellite Ground Segment Property:</b> Includes assets such as fixed earth station equipment, antennas, satellite communications equipment, and interface equipment used in satellite com- munications. Does not include general purpose equipment or equipment used in satellite space segment property -----	8	10	12	—
48.37	<b>TOCSC-Satellite Space Segment Property:</b> Includes satellites and equipment used for telemetry, tracking, control, and monitoring when used in satellite communications -----	6.5	8	9.5	—
48.38	<b>TOCSC-Equipment Installed on Customer's Premises:</b> Includes assets installed on customer's premises, such as computers, ter- minal equipment, power generation and distribution systems, private switching center, teleprinters, facsimile equipment, and other associated and related equipment -----	8	10	12	—
48.39	<b>TOCSC-Support and Service Equipment:</b> Includes assets used to support but not engage in communications. Includes store, warehouse and shop tools, and test and laboratory assets -----	11	13.5	16	—
	<b>Cable Television (CATV):</b> Includes communications-related assets used to provide cable television (communications antenna television services). Does not include assets used to provide subscribers with two-way communications services.				



Asset guide- line class	Description of assets included	Asset depreciation range (in years)			Annual as- set guide- line repair allowance percentage
		Lower limit	Asset guideline period	Upper limit	
48.41	<b>CATV-Headend:</b> Includes assets such as towers, antennas, preamplifiers, converters, modulation equipment, and program non-duplication systems. Does not include headend buildings and program origination assets .....	9	11	13	5
48.42	<b>CATV-Subscriber Connection and Distribution Systems:</b> Includes assets such as trunk and feeder cable, connecting hardware, amplifiers, power equipment, passive devices, directional taps, pedestals, pressure taps, drop cables, matching transformers, multiple set connector equipment, and converters .....	8	10	12	5
48.43	<b>CATV-Program Origination:</b> Includes assets such as cameras, film chains, video tape recorders, lighting, and remote location equipment excluding vehicles. Does not include buildings and their structural components .....	7	9	11	9
48.44	<b>CATV-Service and Test:</b> Includes assets such as oscilloscopes, field strength meters, spectrum analyzers, and cable testing equipment, but does not include vehicles .....	7	8.5	10	2.5
48.45	<b>CATV-Microwave Systems:</b> Includes assets such as towers, antennas, transmitting and receiving equipment, and broad band microwave assets if used in the provision of cable television services. Does not include assets used in the provision of common carrier services .....	7.5	9.5	11.5	2
	<b>Electric, Gas, Water and Steam, Utility Services:</b> Includes assets used in the production, transmission and distribution of electricity, gas, steam, or water for sale including related land improvements.				
49.11	<b>Electric Utility Hydraulic Production Plant:</b> Includes assets used in the hydraulic power production of electricity for sale, including related land improvements, such as dams, flumes, canals, and waterways .....	40	50	60	1.5
49.12	<b>Electric Utility Nuclear Production Plant:</b> Includes assets used in the nuclear power production of electricity for sale and related land improvements. Does not include nuclear fuel assemblies .....	16	20	24	3
49.121	<b>Electric Utility Nuclear Fuel Assemblies:</b> Includes initial core and replacement core nuclear fuel assemblies (i.e., the composite of fabricated nuclear fuel and container) when used in a boiling water, pressurized water, or high temperature gas reactor used in the production of electricity. Does not include nuclear fuel assemblies used in breeder reactors .....	4	5	6	—
49.13	<b>Electric Utility Steam Production Plant:</b> Includes assets used in the steam power production of electricity for sale, combustion turbines operated in a combined cycle with a conventional steam unit and related land improvements. Also includes package boilers, electric generators and related assets such as electricity and steam distribution systems as used by a waste reduction and resource recovery plant if the steam or electricity is normally for sale to others .....	22.5	28	33.5	5
49.14	<b>Electric Utility Transmission and Distribution Plant:</b> Includes assets used in the transmission and distribution of electricity for sale and related land improvements. Excludes initial clearing and grading land improvements as specified in Rev. Rul. 72-403, 1972-2 C.B. 102 ..	24	30	36	4.5

KANSAS CABLE TV ASSOCIATION  
PERSONAL PROPERTY TAX CASE

Report prepared by

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## PROPERTY VALUATION

Currently the Division of Property Valuation of the State of Kansas uses trending factors to update historical costs of property. The trending factors are intended to combine depreciation with inflation in order to value personal property owned by cable TV companies for ad valorem tax purposes.

The process of determining the market value of an asset involves utilizing the following formula:

$$\text{Market Value} = \text{Historical Cost} \times \text{Trending Factor}$$

The trending factor is determined by the economic life of the asset and a measure of inflation. The Kansas Division of Property Valuation currently uses the Consumer Price Index as the measure of inflation.

## THE CONSUMER PRICE INDEX

The Consumer Price Index is the name typically applied to the statistic that measures changes in prices of a large number of goods and services purchased by the typical household. The underlying concept is to measure the change in the cost of a fixed market basket of goods and services. While, from time to time, the market basket does change such changes are accounted for in the construction of the Consumer Price Index. This index is compiled and published monthly by the Bureau of Labor Statistics.

The Consumer Price Index is a Laspeyres Index. The formula is:

$$\text{Index}(t) = [ \sum P(t)Q(a) / \sum P(0)Q(a) ] * 100$$

P is price

Q is quantity

$\sum$  is the summation of products of price and quantity

t is the time period to which the index refers

a is the base period for quantity weights

0 is the base period to which the prices refer

The seven major categories in the Consumer Price Index and their weightings are:

<u>Categories</u>	<u>Weighting</u>
Food and beverage	18.8%
Housing	42.9
Apparel	7.0
Transportation	17.7
Medical Care	4.6
Entertainment	4.5
Other	4.5

Source: U.S. Department of Labor, Bureau of Labor Statistics, The Consumer Price Index: Concepts and Content over the years, May 1978 (revised), p. 8.

Each of the categories is broken down into sub categories. As an example, the Housing Component of the Consumer Price Index is included as Table I.

Table I

HOUSING

Shelter

- Rent, residential
- Other rental costs
  - Lodging while out of town
  - Lodging while at school
  - Tennants insurance
- Homeownership
  - Home purchase
  - Financing, Insurance and Taxes
    - Property Insurance
    - Property taxes
    - Contracted Mortgage interest Costs
  - Maintenance and repairs
    - Maintenance and repair services
    - Maintenance and repair commodities

Fuel and other utilities

- Fuel oil, coal and bottled gas
  - Fuel oil
  - Other fuels
- Gas (piped) and electricity
  - Electricity
  - Utility (piped) gas
- Other utilities and public services
  - Telephone services
    - Local charges
    - Interstate toll calls
    - Intrastate toll calls
  - Water and sewerage maintenance

Household furnishings and operation

- Housefurnishings
  - Textile housefurnishings
  - Household linens
  - Curtains, drapes, slipcovers and sewing materials
- Furniture and bedding
  - Bedroom furniture
  - Sofas
  - Living room chairs and tables
  - Other furniture
- Appliances including TV and sound equipment
  - TV and sound equipment
    - Television
    - Sound equipment
  - Household equipment
    - Refrigerator and home freezer
    - Laundry equipment
    - Other household appliances

## THE PRODUCER PRICE INDEX

The Producer Price Index, formerly known as the Wholesale Price Index, is one of the oldest continuous statistical series published by the Bureau of Labor Statistics. The Index was first published in 1902.

The Wholesale Price Index was designed to measure price changes for goods and services sold in primary markets in the United States. In 1978 the name of the index was changed to Producer Price Index to indicate that the index measures changes in selling prices received by producers from whoever makes the first commercial purchase.

The Producer Price Index is currently undergoing a comprehensive overhaul. By the mid 1980's all indexes will be calculated using the new methodology. As of January 1982, nearly 3,450 commodities were included in the PPI. The Bureau receives some 18,000 price quotations per month. The data base is being expanded every six months until all 493 manufacturing and mining industries are included in the index. Under the new methodology the Bureau will receive some 90,000 price quotes and publish 6,000 product indexes.

The prices used in constructing the index are those that apply to the first significant transaction in the United States. The prices are generally collected the Tuesday of the week containing the 13th day of the month. Prices are based on actual transaction prices. Companies are to report prices less discounts, allowances, and rebates. Prices are generally f.o.b. production or central marketing point to eliminate affects of transportation charges.

Although prices of goods are reported each month it is necessary to make adjustments for quality changes. A new price series resulting from quality changes is substituted for the earlier series. The substitution is done by direct comparison or linking. Linking is a process designed to determine only the change in price which was not due to a change in quality.

As an example of linking consider the following situation. In September an antenna dish cost \$20,000. In October the dish cost \$22,000. However, the new dish has a motorized, chain driven, automatic rotation system not included on previous models. The addition to the system cost \$1,850. The linking process establishes a September dish price of \$21,850 ( $\$20,000 + \$1,850$ ). Thus the change in price, not attributed to quality change is .6% ( $\$22,000 / \$21,850$ ). Thus, the purpose of the linking process is to eliminate all quality changes when measuring changes in the Producer Price Index.

The specific items in the Producer Price Index are designated both by Industry Code and by Product Code. For example, Semiconductors and Related Devices are Industry Code 3674. The components of the industry are shown in Table II.

Table II

SIC Code 3674

<u>Product</u>	<u>Product Code</u>
Primary Products	3674-P
Integrated circuits	3674-1
Digital monolithic	3674-1A
integrated circuits	
Bipolar	3674-12
Memory	3674-121
Other	3674-12105
Logic	3674-122
Transistor logic	3674-12216
other logic types	3674-12226
Metal oxide on silicon	3674-13
Metal processor	3674-13128
MOS except Microprocessor	3674-132
MOS memory	3674-13231
MOS digital	3674-13232
Amplifier	3674-14116
Interface	3674-14219
Voltage regulator	3674-14117
Hybrid integrated circuits	3674-11
Film interconnected devices	3674-111
This film	3674-11111
Multi chip type	3674-11216
Transistors	3674-2
Signal	3674-21
Power	3674-22
Regular	3674-222A
10 watts and over	3674-22267
Diodes and rectifiers	3674-3
Signal diodes	3674-31122
Zener diodes	3674-31194
Semiconductor rectifier	3674-32242
Other Semiconductor devices	3674-9
Optoelectronic devices	3674-91
Thyristors	3674-921
Semifinished parts	3674-925
Secondary products	3674-S
Other secondary parts	3674-SSS
Electronic components	3679-S

## CABLE TELEVISION

It can be demonstrated that the CPI is not indicative of price changes to Cable TV Companies. These Companies do not face the types of costs shown in Table I. The price changes facing Cable Companies may be more accurately reflected by the Standard Industrial Classification 3674, Semiconductors and Related Devices. The following Table compares the Consumer Price Index and the Price Index for SIC 3674.

Table III

### INDEX TABLES

Year	CPI	SIC 3674
1982	289.1	90.8
1981	272.4	90.9
1980	246.8	90.6
1979	217.4	84.8
1978	195.4	85.3
1977	181.5	91.0
1976	170.5	96.7
1975	161.2	102.0
1974	147.7	99.4
1973	133.1	92.4
1972	125.3	91.8
1971	121.3	93.9
1970	116.3	95.6
1969	109.8	92.6
1968	104.2	92.3

The base year for the Consumer Price Index is 1967.

The base year for the SIC Code is 1967 for the years 1970 to present. The 1968 and 1969 figures have a base period of December 1966. The 1968 and 1969 have not been changed to the 1967 base. However, if the 1968 and 1969 figures were adjusted to the 1967 base both indices would be slightly higher.

It should be noted the Consumer Price Index has increased almost three times from 1968 to 1982. This can be seen by dividing the 1982 CPI by the 1968 CPI [ $2.77 = 289.1 / 104.2$ ]. However, the index for the Standard Industrial Classification Index 3674 has declined slightly over this same period of time, currently standing at 98.37 percent of the 1968 index [ $0.9837 = 90.8 / 92.3$ ].



## TRENDING FACTORS

The "1983 Trending Factors" Table, as published by the Division of Property Valuation, has estimated the inflation rates for 1982 and 1983. Since it is not the purpose of this presentation to evaluate the accuracy of the forecasts used by the Division, the following Table uses data published by the U.S. Department of Labor, Bureau of Labor Statistics. The base year is 1982, this is the most current data available.

The inflation factor is the Current Consumer Price Index divided by the Historic Consumer Price Index. For example, the 1970 inflation factor would be  $2.7745 = [289.1 / 104.2]$ .

Table IV

### INFLATION FACTORS

Year	CPI	SIC 3674
1982	1.0000	1.0000
1981	1.0613	0.9989
1980	1.1714	1.0022
1979	1.3298	1.0708
1978	1.4795	1.0645
1977	1.5928	0.9978
1976	1.6956	0.9390
1975	1.7934	0.8902
1974	1.9573	0.9135
1973	2.1720	0.9827
1972	2.3073	0.9891
1971	2.3833	0.9670
1970	2.4858	0.9498
1969	2.6330	0.9806
1968	2.7745	0.9837

This Table again dramatically demonstrates the significant difference in the price changes reflected by the two indexes.

The trending factor is computed as follows:

$$TF = [ CCPI/HCPI ] / [ (HC - AD)/ HC ]$$

where

TF = Trending Factor

Inflation Factor

CCPI = Current Consumer Price Index

HCPI = Historical Consumer Price Index

Asset Base

HC = Historical Cost of Asset

Typically the purchase price

AD = Accumulated Depreciation

In calculating the trending factors the Division of Property Valuation uses a straight line depreciation computation with a ten percent salvage value. This translates to an annual depreciation expense of 30 percent of historical cost for the class of assets having a three year life, 18 percent for the class of assets having a five year life, nine percent for the class of assets having a ten year life, etc.

After calculating the trending factor, as explained above, the Division then reduced the trending factor by fifteen percent. Tables V and VI compare the differences in trending factors using the Standard Industrial Classification Number 3674 and the Consumer Price Index as a measure of the rate of inflation. For illustrative purposes Table V is for classes of assets having a five year life. Table VI is for classes of assets having a ten year life.

As indicated in Tables V and VI, there are significant differences in the trending factors computed using the Consumer Price Index and the Standard Industrial Classification 3674. The trending factors based on the Consumer Price Index results in more than doubling the value of the taxed assets when compared to the Standard Industrial Classification 3674.

Table V

Trending Factors 1982 Guide  
Using CPI and SIC 3674  
5 year life 10% salvage value  
Without 15% reduction  
in trending factor

Year	Base	CPI	CPI Factor	SIC 3674	SIC Factor	Difference
1982	1.00	1.0000	1.00	1.0000	1.00	
1981	.82	1.0613	.87	.9900	.81	7.4%
1980	.64	1.1714	.71	1.0022	.64	10.9%
1979	.46	1.3298	.61	1.0708	.49	24.5%
1978	.28	1.4795	.41	1.0645	.30	36.7%
1977	.10	1.5928	.16	.9978	.10	60.0%

Table VI

Trending Factors 1982 Guide  
Using CPI and SIC 3674  
15 year life 10% salvage value  
Without 15% reduction  
in trending factor

Year	Base	CPI	CPI Factor	SIC 3674	SIC Factor	Difference
1982	1.00	1.0000	1.00	1.00	1.0000	
1981	.91	1.0613	.97	.9989	.91	6.6%
1980	.82	1.1714	.96	1.0022	.82	17.1%
1979	.73	1.3298	.97	1.0708	.78	24.4%
1978	.64	1.4795	.95	1.0645	.68	39.7%
1977	.55	1.5928	.88	.9978	.55	60.0%
1976	.46	1.6956	.78	.9390	.43	81.4%
1975	.37	1.7954	.66	.8902	.33	100.0%
1974	.28	1.9573	.55	.9135	.26	111.5%
1973	.19	2.1720	.41	.9827	.19	115.8%
1972	.10	2.3073	.23	.9891	.10	130.0%

Table VIII recomputes the trending factors using Standard Industrial Classification 3674 as the measure of price changes. In order to recompute the 1983 trending factors it was necessary to forecaste the inflation for 1983. Based on the historic performance of the Standard Industrial Classification 3674 no price change was projected. The results are shown in Table VII.

Table VII

1983 Trending Factors  
Using SIC 3674

Purchase Year	3 Years	5 Years	7 Years	10 Years	12 Years	15 Years
1983	1.00	1.00	1.00	1.00	1.00	1.00
1982	.60	.70	.74	.77	.79	.80
1981	.34	.54	.63	.70	.72	.75
1980	.08	.39	.52	.62	.66	.70
1979		.25	.44	.58	.63	.69
1978		.09	.32	.50	.56	.63
1977			.20	.37	.47	.54
1976			.08	.30	.38	.46
1975				.21	.30	.39
1974				.15	.25	.36
1973				.08	.21	.33
1972					.15	.28
1971					.08	.23
1970						.18
1969						.13
1968						.08

Table VIII

INFLATION FACTORS

SIC 3674  
1983 Current Year  
Assuming no inflation in 1983

Year	SIC 3674
1983	1.0000
1982	1.0000
1981	0.9989
1980	1.0022
1979	1.0708
1978	1.0645
1977	0.9978
1976	0.9390
1975	0.8902
1974	0.9135
1973	0.9827
1972	0.9891
1971	0.9670
1970	0.9498
1969	0.9806
1968	0.9837

## CONCLUSIONS

A comparison between the trending factors published by the Division of Property Valuation and that shown in Table VII, using Standard Industrial Classification 3674, indicates a consistent pattern of excessive valuation of the assets for tax purposes.

Class of Assets	Excess Valuation
3 years	5.44%
5 years	12.12%
7 years	20.36%
10 years	34.90%
12 years	45.32%
15 years	60.58%

For the Cable Television Industry the Standard Industrial Classification 3674 is a more accurate indicator of industry price changes. The trending factors based on 3674 are significantly different from the trending factors based on the Consumer Price Index and would result in a much lower property valuation.

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James Sinclair, Supervisor for Data Collection and Analysis, Department of Labor, Bureau of Labor Statistics.

## EXHIBIT "E"

<u>Selected Head-end Equipment</u>	<u>Purchase Year</u>	<u>Cost</u>	<u>1983 List (new)</u>	<u>Used Price</u>	<u>Assessed Value per guidelines</u>
Jerrolds Pass Band Fitter	1971	92	93	65	90
Jerrold Processor CMMP-3	1976	1,732	not manufactured	895	1,801
Jerrold Module IFC-6	1977	406	472	250	426
Sci. Atlanta 6601 Receiver	1979	2,775	---	1,890	2,802
Sci. Atlanta Modulator T9	1981	1,751	---	940	1,540
4.5 Meter Antennae	1979	12,485	4,200	---	12,609
Low Noise Amplifier 120K	1978	2,520	325	---	2,620
Terracom Receiver	1978	6,490	2,350	---	6,750
Andrew Earth Station and related Electronics	1976	96,000	16,000	---	99,840



1 A. Right.

2 Q. And then you supervised Mr. Cooper?

3 A. Well, both.

4 Q. Does Mr. Kingman report first to Mr. Cooper or  
5 does he also report directly to you?

6 A. Oh, we're fairly loose in that regard. My door  
7 is open. He can come in and see me if John's not around.  
8 We're not structured where he has to go to John first and  
9 then me, you know.

10 Q. If there was an organization flow chart of those  
11 three, Mr. Kingman would be lower and then Mr. Cooper in  
12 the middle and you above both of them, correct?

13 A. That's correct.

14 Q. When was it first brought to your attention that--  
15 by your staff that there ought to be some changes made in  
16 cable TV tangible property assessment?

17 A. I'm guessing it was in 1982 sometime.

18 Q. And who brought that to your attention?

19 A. Both John and Henry.

20 Q. Can you tell us, you know, how they put it?

21 A. Very simply they felt that cable TV wanted to  
22 deal exclusively in the cost area and did not want to look  
23 at the market approach or the income approach to value and  
24 that the cost approach under the previous guidelines in  
25 their opinion was nowhere close to market value.

1 Q. At that time, at the time they first contacted or  
2 discussed this with you in 1982 did you personally have any  
3 sufficient basis for either agreeing or disagreeing with  
4 them?

5 A. No.

6 Q. Were you aware prior to 1982 of any work being  
7 done by Mr. Kingman in evaluating cable TV companies and  
8 their property?

9 A. Yes.

10 Q. Was this something that he had been doing at your  
11 direction?

12 A. It was an ongoing, I believe, study that he had  
13 started back in the late '70's.

14 Q. Did he make any periodic reports to you or to  
15 your knowledge your predecessor in regard to what he was  
16 finding in this study?

17 A. I can't speak for my predecessor but for myself  
18 he would try to gather up as much information as he could  
19 in terms of sales that were according and also would look  
20 back into the income analysis.

21 Q. All right. This had been an ongoing thing even  
22 prior to 1982 then?

23 A. Well, that was something he was looking at, yes.

24 Q. Was he also discussing his finding with you prior  
25 to 1982?

1 or on an average inventory basis.

2 Q. All right, now, when Mr. Kingman and Mr. Cooper  
3 first brought this problem to your attention in 1982 I  
4 believe you indicated at that time you didn't have a basis  
5 to either agree or disagree with their conclusions, is that  
6 correct?

7 A. That's correct.

8 Q. What reason did they give you for believing that  
9 the then existing system of taxing cable TV tangible  
10 personal property was inadequate or inappropriate?

11 A. The sales and the income approach which they were  
12 utilizing.

13 Q. You mean the income as to an entire cable TV  
14 system?

15 A. The income that would be derived from a cable TV  
16 system, yes.

17 Q. Just so we can be absolutely clear, you presently,  
18 the State of Kansas or the local counties, do not have the  
19 authority to tax a cable TV company, is that correct, as a  
20 going business?

21 A. I think we have the obligation of valuing the  
22 property that the cable TV system has.

23 Q. The tangible personal property, correct?

24 A. The property which they have, yes.

25 Q. Well, do you have any statutory or other

1 authority to tax anything other than tangible personal  
2 property?

3 A. I believe that they fall under 503, 79-503.

4 Q. Do you have any authority to tax anything other  
5 than tangible personal property of the cable TV company?

6 A. I think, you know, our authority lies in 79-503.  
7 I'd be more than happy to read that for you.

8 Q. All right. Are you not able to answer yes or no  
9 whether you believe you have authority to tax other than  
10 tangible personal property?

11 A. What I believe is that our authority to tax cable  
12 TV companies come under 79-503.

13 Q. All right. What does 79-503, say?

14 A. If you would care to hand me a statute book I'd  
15 be more than happy to read it to you.

16 Q. I don't have mine handy with me. I'm sure we  
17 have one someplace.

18 MR. DICKINSON: I've got a copy of it if you want  
19 to look at it?

20 A. Yeah, why don't we read it. 79-503A, "Fair  
21 market value" means the amount in terms of money that a  
22 well informed buyer is justified in paying and a well  
23 informed seller is justified in accepting for property in  
24 an open and competitive market, assuming that the parties  
25 are acting without undue compulsion. For the purposes of

1           A.    If it would be it would be in the intangible  
2 section, I would suppose. That I'm not clear on. I would  
3 expect that they would be like other people and pay an  
4 intangible tax on their intangible properties.

5           Q.    With respect to the personal property valuation  
6 guide for 1982, who on your staff is involved in the  
7 preparation of that document?

8           A.    On personal property?

9           Q.    Yes, it's Exhibit 3 or Exhibit 2 and 3 of our--  
10 this document here?

11          A.    The whole personal property staff would be  
12 involved in the preparation of the Miscellaneous Property  
13 Guide but if you're speaking of just cable TV that would be  
14 Henry and John.

15          Q.    With respect to the entire guide, would that be  
16 something that the ultimate approval or disapproval of its  
17 contents would be yours?

18          A.    Yes.

19          Q.    When after Mr. Kingman and Mr. Cooper contact you  
20 in 1982 did you become convinced that they were correct  
21 that there were some problems with the present method of  
22 assessment?

23          A.    Shortly after we had a discussion because they  
24 had met with some representatives for cable TV. I became  
25 very convinced that there was probably a problem in the

1 present or the past method of achieving market value.

2 Q. And why was that?

3 A. The first thing that really convinced me that we  
4 were probably correct in our analysis is when I had a visit  
5 by Rob Marshall with the association.

6 Q. All right. And what did Mr. Marshall tell you  
7 that convinced you?

8 A. That he didn't want to look at any type of sales  
9 or didn't want to do an income approach to it. They wanted  
10 strictly the cost approach of value.

11 Q. Why do you say that caused you to be concerned  
12 about the present method?

13 A. Because I felt that they had something to hide.

14 Q. What deficiencies-- I assume then you're  
15 suggesting that the cost approach is not a proper approach?

16 A. I'm suggesting that it could be deficient.

17 Q. All right. What deficiencies do you see in  
18 utilizing the cost approach?

19 A. A good appraiser will always want to look at  
20 three approaches to value. He'll want to look at the sales,  
21 he'll want to look at income approach and he'll want to  
22 look at cost approach. They should be taken into context  
23 and it was very obvious to me that the industry did not  
24 want to deal in sales or the income analysis.

25 Q. Now, when we're talking about sales, using the

1 sales approach, are you talking about sales of an entire  
2 cable TV company or sales of a tower or an antenna or  
3 subscriber device?

4 A. Both.

5 Q. Can you tell me, please, of what bearing sale of a  
6 going business concern would have in valuing the-- of a  
7 piece of equipment owned by that business?

8 A. Well, it would have an indication on what its  
9 fair market value might be.

10 Q. Can you be a little more specific about how you  
11 would analyze that from the going concern sale price?

12 A. Well, we would want to look at the details of the  
13 sales and what occurred.

14 Q. Can you be a little more specific. What details  
15 would you want to look at to value the tangible personal  
16 property?

17 A. Well, we would like to talk to both the buyer and  
18 the seller about their analysis on why they bought this.

19 Q. Have you done that in regard to any cable TV  
20 company transactions?

21 A. I hope to do that.

22 Q. Then your answer is no, you have not?

23 A. Not to this point but we hope to get to that  
24 point at some day.

25 Q. Is the income approach helpful in valuing

1 property that does not by itself generate income?

2 A. I would never ever exclude out an approach to  
3 value. I have seen a lot of properties that maybe for one  
4 year or the next year do not generate income but typically  
5 a commercial or an industrial property is bought on a basis  
6 of what type of income it will produce so if it's not  
7 producing income I would question why people are buying or  
8 selling it. There has to be another motive in there.

9 Q. Well, for example, would the income of my law  
10 firm be of any relevance to you in valuing the typewriter  
11 on my secretary's desk?

12 A. Well, if we wanted to spar about analysis, the  
13 law firms are, I don't think, bought and sold based upon  
14 typewriters.

15 Q. Are you suggesting that cable television  
16 companies are bought and sold basically upon their hardware?

17 A. I'm suggesting that some properties are bought  
18 and sold because of their hardware.

19 Q. Do you know of any such properties?

20 A. Yes, I do.

21 Q. Which properties are those?

22 A. The Mobile Refinery just sold to the Williams  
23 Brothers.

24 Q. I'm sorry, I meant cable TV properties?

25 A. Well, if I could finish my answer.



1 Q. All right.

2 A. And it sold all of their property that they had  
3 at the refinery along with some other properties and I see  
4 no difference between it and the cable TV properties.

5 Q. You see no difference between a refinery and a  
6 cable TV company?

7 A. From the standpoint that they sold in  
8 conglomerate and there are other occasions where they  
9 parcel that stuff out so there are two different types of  
10 sales there are-- we would look at.

11 Q. Have you considered any data of sales of tangible  
12 personal property of cable TV companies?

13 A. In my discussions with the cable TV industry they  
14 were just absolutely hard lined that they would not get  
15 into sales approach to value and I have not been able to  
16 crack that at this point.

17 Q. You're aware that there are companies involved in  
18 selling used cable TV equipment, are you not, that have  
19 price lists available for the general public?

20 A. I suspect that there probably are, yes.

21 Q. So there is sales data available for individual  
22 property that is not sold with a cable TV system, isn't  
23 that correct?

24 A. And there are sales data available for those  
25 which sell in totality just like there are with the

1 refineries. There are people that will sell components of  
2 that refinery and there are people who buy the total thing.

3 Q. Other than refineries or cable TV companies, is  
4 there any other industry in the State of Kansas in which  
5 you think it is appropriate to value the tangible personal  
6 property of a company based upon the sales price of its  
7 entire-- of the entire going concern?

8 A. Oil and gas would be the first one that comes to  
9 my mind. I'm sure there are probably others but not, you  
10 know, thinking about that.

11 Q. How about newspaper, for example?

12 A. A newspaper could also be, a TV station, a radio  
13 station, there is-- probably they would be bought and sold  
14 on some type of subscriber basis.

15 Q. Is a subscriber that-- does a subscriber to a  
16 cable TV company, newspapers or whatever, constitute an  
17 item of tangible personal property that is subject to  
18 taxation under the Kansas statutes?

19 A. No. What I think it is is a method of breaking  
20 out into a laymen's term in easy definition of where these  
21 people are at for equalization purpose.

22 Q. You don't-- you don't claim to have the authority  
23 to be able to tax a company on the number of subscribers it  
24 has because it has a subscriber?

25 A. What we're saying is that there are many

1 different roads, many different methods to get to valuation  
2 that are included within cost, market and income but when  
3 you finally break it out so that it's an easily  
4 understandable thing rather than just dealing in raw  
5 figures, it's very easy to deal in a per subscriber basis  
6 or a per barrel analysis or a number of factors. That is  
7 just-- that is just a language is what that is.

8 Q. Let's take the case, for example, of a newspaper,  
9 the only newspaper in a metropolitan area?

10 A. Um-hum.

11 Q. Now, presumably because it's the only one it can  
12 charge its buyers more than if it had competition, right,  
13 usually?

14 A. I guess. You know, you're dealing in  
15 hypotheticals and it's difficult for me to deal in  
16 hypotheticals. It could be higher, it could be lower.

17 Q. You recall the interrogatories and request for  
18 admissions that you signed and answered that I had sent to  
19 you?

20 A. I think I recall them. I looked at them.

21 Q. You read those over and those were your answers,  
22 your signature?

23 A. Yes, yes.

24 Q. Now, I asked you on No. 3 to admit that the 1983  
25 Kansas appraisal guide for miscellaneous personal property

1 appraisal guide was intended to increase the assessment of  
2 anyone who was following the prior guidelines?

3 A. It was intended to find fair market value.

4 Q. And it was your judgment that the prior  
5 guidelines were less than fair market value, correct?

6 A. Yes.

7 Q. With respect to No. 4 you denied that request and  
8 I would ask you if your denial is because you didn't know  
9 or because you were stating that you did know that there  
10 was no such property owned by other companies that was  
11 identical or substantially similar to cable TV tangible  
12 property?

13 A. Well, I don't think that there was, you know,  
14 substantial comparability.

15 Q. All right. Do you have any engineering or  
16 technical background training?

17 A. No.

18 Q. Did any members of your staff have such training  
19 or background to your knowledge?

20 A. I don't believe we've got any engineering degrees  
21 on board.

22 Q. Do you know then what the difference between the  
23 satellite dish that's out on the Holidome out west of  
24 Topeka and one owned by a cable TV company might be?

25 A. No.

1 Q. And in fact so far as you know they may be  
2 identical or substantially similar?

3 A. In my opinion they're probably not comparable but  
4 that's a layman's opinion.

5 Q. Upon what do you base that opinion?

6 A. Just experience.

7 Q. Well, they both have the same function, do they  
8 not, to get signals off of satellites?

9 A. They could have a different function or I would  
10 just suspect, again, based upon just a layman's experience  
11 in this area and understanding that I'm not an engineer  
12 that there would be a difference.

13 Q. All right. What?

14 A. I might be incorrect, I don't know.

15 Q. Do you know of a difference of purpose in the two  
16 satellite dishes? One owned by the Holidome and one owned  
17 by cable TV?

18 A. No, I don't know of any difference between the  
19 two. I suspect that there is a difference but I don't know.  
20 I don't hold myself out to be a technical expert.

21 Q. And would that be the same with respect to say an  
22 antenna owned by a cable TV company and an antenna owned by  
23 a television station or radio station? Would you have any  
24 knowledge as to how those differ?

25 A. I would suspect that one would be more complex

1 than the other.

2 Q. Which would be more complex?

3 A. Well, if you're comparing it to a satellite dish  
4 that somebody might have in their backyard versus a  
5 television antenna, I would think that the television would  
6 be much more complex. The same thing goes with the cable  
7 TV system. If you're comparing it to a dish that they've  
8 got on top of a Holidome over in Lawrence. I'd think  
9 that's fairly simple compared to the equipment that you  
10 have in some of your larger cable operations.

11 Q. Well, how about-- we're not talking about dishes  
12 in somebody's backyard. How about an antenna that's owned  
13 by a TV station, commercial TV station and one owned by a  
14 cable TV company? Do you know whether in fact those  
15 antennas have any significant difference?

16 A. There could be a difference. Again, I don't know.

17 Q. But again there may not be?

18 A. May not be. Probably is.

19 Q. Is it your understanding that with the present  
20 guidelines that those items of property would be taxed  
21 differently because of the business in which the owner was  
22 involved rather than because of the value of the property?

23 A. Well, I think that there could be a difference?

24 A. Yes.

25 Q. All right. Do you believe it is lawful under

1 television tower would be different than a cable TV tower  
2 or cable TV would be different than television, you in fact  
3 don't know that there's any difference?

4 A. I would suspect that there is a difference.

5 Q. Why would you suspect that?

6 A. Because they're different operations.

7 C. Well, speaking of going to court, have you  
8 consulted yet with any experts outside of this division or  
9 outside of the Department of Revenue in regard to this?

10 A. I believe Henry or John has contacted an  
11 individual by the name of Joe Veck (sp).

12 Q. Have you consulted with any of these technical or  
13 engineering experts that you've referred to that you would  
14 have--

15 A. No. As the case develops if we go to court we  
16 will probably consider that.

17 Q. If a technical expert were to substantiate that  
18 the satellite dish on the Holidome is essentially similar  
19 and may be the same model as the one of the cable TV  
20 company and costs the same, would, in your judgment, it be  
21 permissible to tax those two items of property differently?

22 A. We would want to look at the two other approaches  
23 to value, also. The income and the sales and, of course,  
24 there, I think you're talking about substantially different  
25 criteria.

1 Q. Do I understand you then to say that you do feel  
2 that an identical item of personal property can have a  
3 different value for tax purposes depending on who owns it  
4 and how much money they make?

5 A. What I'm saying is that the value could be higher  
6 or could be lower depending upon the facts of the other two  
7 approaches to value.

8 Q. Okay. So it would, in your judgment, be  
9 permissible under Kansas law to assign two different values  
10 to the same property owned by two different owners if the  
11 income and--

12 A. I think you're missing the point. Obviously with  
13 the Holidome you're looking at something that's involved in  
14 the hotel and motel industry. With the cable TV you're  
15 looking at a different analysis there and obviously in the  
16 sale of Mr. Brock's Holidome over there, that little dish  
17 that's sitting up there is just going to play a little  
18 portion of it and there could be a different value that  
19 could be assigned to it in comparison to a cable TV system.  
20 That is going to be something that is the buyer and the  
21 seller would probably tell us what value they placed in  
22 purchasing it.

23 Q. That dish has a fair market value as a dish  
24 though, doesn't it? Can be bought and sold?

25 A. The dish has a fair market value being bought and



1 sold.

2 Q. All right.

3 A. It has a value to those people who run that  
4 particular operation.

5 Q. That's not--

6 A. It might be greater than and it might be less  
7 than what the item standing by itself.

8 Q. Okay. That value to the people who run the  
9 operation is not what we're taxing, correct? That's not  
10 fair market value, would you agree with that?

11 A. Well, the people that are running that operation  
12 buy and sell things in conglomerate. Obviously when Brock  
13 sells a hotel he doesn't sell it one room at a time or bed  
14 at a time or pillow at a time or sheet at a time. He's  
15 selling it as an operation and I think that that's  
16 something that we have to get in and analyze as to what  
17 occurred and I think what the cable TV industry has said to  
18 me very clear is that we don't want to look at sales,  
19 period.

20 Q. While we're on that subject, have you considered  
21 valuing tangible property owned by motels based upon the  
22 sale price of the whole motel?

23 A. If they are bought and sold in that manner and I  
24 think there is some disagreement as to whether they are but  
25 I have talked to a number of people in the hotel-motel

1 you're asking for.

2 MR. TROUP: I'm asking for any of those that were  
3 not in compliance with the 20, 15, 7 and with the trending  
4 factors and if there was some other adequate justification  
5 given then I want to know that, too.

6 MS. BONSERRAKL: Okay.

7 Q. No. 9 of your admissions you denied that the  
8 useful lives in the guidelines were not based upon any  
9 empirical evidence or data derived from actual experience in  
10 the cable television industry in Kansas or elsewhere. Can  
11 you state the empirical evidence or data you have to support  
12 those useful lives?

13 A. Be the study that the staff had.

14 Q. All right. If there were such data would Mr.  
15 Kingman know about it?

16 A. Mr. Kingman or Mr. Cooper, I would imagine.

17 Q. All right. Are you aware that Mr. Kingman has  
18 testified under oath that there is no such data and that he  
19 has-- that the guidelines were in affect artificial in  
20 order to achieve a value that they wanted to reach?

21 A. Well, they were wanting to achieve fair market  
22 value and their empirical evidence would be the study that  
23 he has done. I understand what you're saying there but we  
24 would stand with our admission.

25 Q. All right, Mr. Kingman was asked and I'll just

1 ask if you agree or disagree with his testimony in each of  
2 these instances. He was asked to produce at page 79 of  
3 Volume one of his deposition any documents that he had to  
4 substantiate the 20 year useful life was appropriate for  
5 residential assets, fifteen for the subscriber connection,  
6 seven for the programmer and he answered, "I don't have any  
7 documents to substantiate that." Do you agree or disagree  
8 with that testimony?

9 A. Well, I think if you look at it from the context  
10 of the sales and the income approach that he used also I  
11 think that that gets into this particular guide, also.

12 Q. Okay. He was also asked at page 13 of Volume two  
13 of his deposition by Mr. Dickinson, "Did you make any  
14 effort to determine the actual experience of either Kansas  
15 cable TV companies or other cable TV companies as to the  
16 useful life in their operations of the assets described in  
17 the subscriber connection and distribution system category"  
18 and he answered no. Do you agree or disagree with his  
19 answer?

20 A. I'll let Henry's statements stand for itself.

21 Q. If he didn't make any such attempt do you know of  
22 anyone on your staff or you personally who did make such an  
23 attempt to determine actual life?

24 A. What they determined was that of course you're  
25 talking about empirical evidence or data derived from

1 actual experience in the cable television industry so I  
2 would suggest that are other criteria that are in there.  
3 Again, the cable TV industry just wants to deal in the cost  
4 approach. That's what this thing is all about and if we  
5 ever get down to the point to where we either use sales and  
6 income approaches in this thing, then we'll either go  
7 forward with this case or it will go away.

8 Q. Well, we wouldn't care about useful lives if we  
9 weren't talking about the cost approach, isn't that correct?

10 A useful life is an element in the cost approach?

11 A. Useful life, that is something that is  
12 argumentative. I mean it's an argumentative tool that this  
13 industry has used for the past decade to keep their taxes  
14 equalized on real property.

15 Q. Are you aware of any evidence of any kind to  
16 support the suggestion that the cable--

17 A. I will--

18 Q. Let me finish my question. Cable TV tangible  
19 personal property actually has in practical useful lives of  
20 20, 15 and 7 year as categorized in your guidelines?

21 A. There are possibly some that are out there but  
22 from the standpoint of the overall view and, again, we're  
23 looking at this from more of the cost approach, I think  
24 there's an enhancement to this particular property. Sales  
25 will indicate that.

1 Q. Do you agree with Mr. Kingman that the useful  
2 lives included in the guidelines were artificial in order  
3 to reach a certain predetermined level of fair market value?

4 A. I agree that the guide which we put out would  
5 achieve market value. I don't think they're artificial in  
6 that regard.

7 Q. So you would agree-- I asked him, "All right.  
8 And is it correct that the description of those items as  
9 actually having a 20 year economic life or 15 year economic  
10 life are in effect artificial in order to achieve that  
11 valuation level," and he answered, "That's correct. It was  
12 just the end result, all we wanted."

13 A. The end result is what we want to market value,  
14 yes, that's what we're looking for is market value and I  
15 believe that there is an enhancement to a process to that  
16 particular equipment.

17 Q. Can you expound on that a little. What do you  
18 mean enhancement?

19 A. Well, the value of the property is enhanced,  
20 equally, by the income that it is generating. Again, we  
21 come back to the same square one. We're dealing with an  
22 industry that wants to deal with cost and cost alone.

23 Q. I understand. You're not talking to the  
24 legislative committee now so we don't need to hear the  
25 editorials?

1 Q. Now, would the converse of that be correct that  
2 if you do have--

3 A. Current cost information.

4 Q. Then you would not need the trending factors to  
5 up-date historical cost?

6 A. No, I wouldn't-- no, I wouldn't necessarily go  
7 along with that because within the cost approach there are  
8 three accepted methods that you can look at. There is  
9 original cost, depreciated cost and your trended cost.

10 Q. Under what circumstances would it be appropriate  
11 to value property for tax purposes at a higher value than  
12 what you can replace that property for, what the owner  
13 could replace it for?

14 A. Where the sales indicate that they're above  
15 replacement cost.

16 Q. Sales of what, sales of the entire company?

17 A. Sales of the property or in sales of the entire  
18 property. I mean we've got to look at the sales, that's  
19 the whole thing.

20 Q. Let's talk about an individual?

21 A. Or if the income approach is also indicating that,  
22 you know, the properties are earning way above what it's  
23 replacement cost is. That would be another.

24 Q. You mean if the income approach justified it. If  
25 I've got a thousand-- if I buy today a thousand dollar

1 piece of equipment for my cable TV company, put it in  
2 service tomorrow, that it might possibly be justifiably  
3 assessed at two thousand dollars if my company is  
4 successful, making a lot of money?

5 A. Well, maybe that thousand dollar piece of  
6 equipment might be very scarce and sales today is just like  
7 the same comparison with the drilling rigs. You might not  
8 be able to get that piece of equipment. Here again, we  
9 start to deal in hypotheticals.

10 Q. All right. I'm not talking about hypotheticals  
11 though. If you have a piece of equipment such as we do in  
12 the cable TV industry which is presently available at a  
13 price less than what it is assessed at through the use of  
14 trending factors, do you feel that the use of trending  
15 factors has reached fair market value?

16 A. There again, you're looking at just the cost  
17 approach to value and I think you are dealing in  
18 hypotheticals because you're not being specific with me.

19 Q. All right. Now, you can keep looking at that for  
20 this question. I did ask you to admit that the trending  
21 factors in the guidelines are intended to provide an  
22 estimate of current replacement cost. Now, after looking  
23 at this language there under trending factors in the  
24 guideline can you now state whether that's true or false?

25 A. What admission are you on.

1 Q. Fourteen?

2 A. Well, again, I'll stand by my answer that they're  
3 designed to get the fair market value.

4 Q. All right. And you're just disclaiming  
5 responsibility for the contradiction in the text of the  
6 guideline.

7 MR. WHITMORE: Objection, misstating the  
8 contents of the guide.

9 Q. There's no-- you'll agree that there's nothing in  
10 the text under trending factors that talks about fair  
11 market value, it talks about current replacement cost,  
12 right?

13 A. No. It does say, therefore, the indicated market  
14 value estimate, so there is market value that is in that  
15 guide and it is within the context of all the guides.

16 Q. Please distinguish as used in this page one of  
17 the Market Value Guide, tell me the difference between  
18 current replacement cost and fair market value as you've  
19 used it in there?

20 A. We're indicating in this case that the  
21 replacement cost would be the indicator that would be used  
22 for market value but the ultimate goal of the guide is to  
23 attain market value.

24 Q. Admission No. 15, I asked you to admit that the  
25 Miscellaneous Personal Property Guide is based on the cost



1 approach to valuation and you denied that. Do you still  
2 deny that?

3 A. Um-hum.

4 Q. The first sentence of the Miscellaneous Personal  
5 Property Guide says that the Miscellaneous Personal  
6 Property Guide is based on the cost approach?

7 A. Um-hum.

8 Q. Can you please explain or reconcile those, what  
9 seem to be, inconsistencies?

10 A. What we're looking at is the three approaches to  
11 values, also. The sales and the income, also.

12 Q. Would you agree that there is nothing in the  
13 Miscellaneous Personal Property Guide that indicates that  
14 you're using any approach other than cost?

15 A. No, but when I put out a guide I have to  
16 correlate to those three.

17 Q. No, you don't agree or no--

18 A. I agree that the guide is intended to represent  
19 market value but it's based upon my analysis of all three  
20 approaches.

21 Q. But it expressly states that it's based upon the  
22 cost approach, correct?

23 A. But our answer states we're trying to do three  
24 approaches of value.

25 Q. Why didn't you just say in the guide that you

1 were using other approaches other than the cost approach?

2 A. I don't know.

3 Q. What in the guideline would assist a county  
4 assessor in using anything other than the cost approach for  
5 valuing cable TV company property?

6 A. Sales and income that's in the statute of 503.

7 Q. Please show me in the guide how a county assessor  
8 could use that in assessing the sales to income approach?

9 A. Because the guide is intended to achieve market  
10 value under 503 and he can use any part of 503 that he  
11 wants to.

12 Q. I'm not asking about the statutes?

13 A. I understand that.

14 Q. I'm asking about the guide. You're saying the  
15 guide is based not on the cost approach?

16 A. He can deviate from that guide.

17 Q. Now, why in the guide does it give him any  
18 guidelines as to how to use any approach other than the  
19 cost approach or does it?

20 A. Well, it doesn't specifically give him any other  
21 guidelines but it does, you know, state that we are to  
22 achieve market value and that's what the whole principal is.  
23 Now, if the guy doesn't, then he has all the authority and  
24 all the ability to deviate from it that he wants to.

25 Q. Why?

1 A. If he can justify his position.

2 Q. Why didn't you just put out a guide saying  
3 achieve fair market value. Why the stuff with the 20, 15,  
4 7 years?

5 A. Helps with uniformity.

6 Q. The useful lives would be of any assistance in  
7 using the other two approaches, would it?

8 A. That's strictly cost approach but the sales and  
9 the income would be another analysis that they could do  
10 themselves.

11 Q. Is it correct that there is nothing in the  
12 guideline to help the county assessor in using either of  
13 those approaches?

14 A. Well--

15 Q. The guideline is only of a benefit if he's using  
16 the cost approach, right?

17 A. Right.

18 Q. Thank you. You're aware that there are other  
19 price indexes other than the consumer price index?

20 A. Yes.

21 Q. And can you explain why you would not allow the  
22 use of trending factors incorporating a price index for  
23 electronic equipment or semiconductors?

24 A. We haven't ever seen any information that is that  
25 detailed.

1 Q. What do you mean?

2 A. We know of no index that speaks to semiconductors  
3 by-- standing by themselves.

4 Q. Are you familiar there is an index for  
5 semiconductors and related devices?

6 A. No, I'm not.

7 Q. Okay. That wasn't made available to you during  
8 the course of the negotiations with the association?

9 A. Not to my knowledge that I can remember, no.

10 Q. If there were such an index would you consider  
11 that that might be useful in adopting trending factors for  
12 use in a high technology industry such as cable TV?

13 A. It would be one of the approaches that we would  
14 use in adopting a guide to value the cable TV industry but  
15 again, I would not put all my weight on that standing by  
16 itself.

17 Q. Okay.

18 A. And I think that's again where our breakdown  
19 comes whether I'm on a soap box or not.

20 Q. Now, in Admission No. 19 you stated you denied my  
21 request that you admit that you acquired no empirical  
22 evidence or data with respect to the actual current  
23 replacement cost of any item of personal property generally  
24 used by cable TV companies in Kansas. Can you please state  
25 what evidence you have with regard to actual current

1 types.

2 Q. They don't talk about actual current replacement  
3 cost of specific items of property, do they?

4 A. No.

5 Q. Do you have anything like that?

6 A. Not that I know of.

7 Q. Okay. Maybe your denial is because you didn't  
8 understand what I was asking in that?

9 A. Right.

10 Q. Would you agree with that then?

11 A. Right.

12 Q. Okay. Now, since you referred to No. 21 I'll ask  
13 you about that. I'm intrigued by your suggest that current  
14 cost information is irrelevant. I understood you to say  
15 earlier it's not the only thing you would use but--

16 A. Well, our goal--

17 Q. How do you determine that the amount that it  
18 would cost you to buy a piece of property right now is  
19 irrelevant to determining what the fair market value of  
20 that property is?

21 A. Well, the relevance is what the market place is  
22 doing.

23 Q. Right, and isn't that part of current cost  
24 information, what this item would cost?

25 A. Not necessarily, no, not necessarily. Cost and

1 market don't actually equate in all cases.

2 Q. What-- maybe we don't understand what we're  
3 talking about or maybe we don't agree on what current cost  
4 information means. What does current cost information mean  
5 to you?

6 A. Current cost information I guess would be the  
7 price that property is bringing at a retail basis.

8 Q. Okay. And you don't feel that that would have  
9 any relevance on what that property is worth?

10 A. Not necessarily.

11 Q. You're saying it's irrelevant. As an appraiser  
12 you would not even consider what property was bringing on  
13 the market today?

14 A. As an appraiser what I would look at is the three  
15 approaches to value.

16 Q. Isn't current cost information part of one of  
17 those approaches, at least one of those approaches?

18 A. One-third of the cost depreciation. There's  
19 depreciated books and trended cost as well.

20 Q. So, how would you say that it is not-- that it is  
21 irrelevant to determine fair market value?

22 A. You've got to look at all three approaches.

23 Q. Okay. In other words, it is relevant, it's one  
24 of the three factors you would consider?

25 A. Cost is pretty irrelevant though.

1 Q. It is the least important or least relevant of  
2 the three approaches--

3 A. Um-hum.

4 Q. --in your judgment? Is that just for cable TV  
5 companies or anything?

6 A. That's basically my whole opinion on valuation,  
7 that cost information is not probably the better tool there  
8 is to use. I prefer to look at sales and the income  
9 approach.

10 Q. Is it correct that your intention at the present  
11 time is that cable TV property should be taxed upon the  
12 going value of the cable TV company as a business entity,  
13 the sale price of the entire company or the value of the  
14 entire company?

15 A. No, it is our intent to value them according to  
16 the statutes in 503 and when we get down with that process  
17 we would like to break it out on a per subscriber basis so  
18 that we can use that as an equalization tool. Now, that  
19 might give us-- the sales will obviously give us benefits  
20 in that regard as to what this industry is worth, the  
21 income also.

22 Q. You're more concerned with what the industry is  
23 worth rather than what the nuts and bolts and the tangible  
24 personal property is worth then, is that correct?

25 A. We're concerned with both in that regard.

1 Q. Why are you even concerned with what the business  
2 itself is worth?

3 A. Well, because I feel that that gives an  
4 indication as to what the nuts and bolts are worth.

5 Q. Do you feel there's anything in a cable TV  
6 company other than the value of its nuts and bolts, other  
7 than the tangible personal property?

8 A. There could be something else, I don't know. I  
9 haven't had the honor to check the sales out yet but if we  
10 ever get to that point--

11 Q. As I know it your guidelines are based upon sales,  
12 is that correct?

13 A. Right, but the industry has not cooperated, let's  
14 say, in that regard.

15 MR. TROUP: I have no other questions. I believe  
16 Mr. Dickinson does.

17 MR. DICKINSON: May I proceed?

18 A. Go ahead.

19 MR. DICKINSON: Thank you.

20 MR. WHITTOPE: You have nineteen minutes.

21 CROSS EXAMINATION

22 BY MR. DICKINSON:

23 Q. Mr. Martin, are you familiar with the  
24 interrogatories submitted over your name to the World  
25 Company doing business as Sunflower Cablevision?



1 intervenor, Kansas CATV Association, your response was  
2 quote, the useful lives were based on a review of seven  
3 years rendition for the 150 cable systems in Kansas, period.  
4 Renditions were reviewed to determine the length of time  
5 that the equipment was actually kept, period, unquote.  
6 Which is correct, Mr. Kingman's response or yours?

7 A. I think that they both are. It gets back down  
8 into a definition of what you're talking about in terms of  
9 your study. You know, I view this that we put down as  
10 truthful and honest. We have seven years worth of  
11 renditions up there and they were reviewed and I understand  
12 and I read the portion of his where you said, show me those  
13 renditions. Well, I think it gets down into what actually  
14 accomplishes the goal that you're asking about. In my mind  
15 I was satisfied with the answer that I gave.

16 Q. So you see no inconsistencies between the  
17 Kingman's responses and your own?

18 A. That's correct.

19 Q. Also in part two of the Kingman deposition at  
20 page 108 beginning on line seven, the statements are as  
21 follows and I will need to read this so that you recall  
22 what it states. Question by Mr. Dickinson, quote, are you  
23 permitting county assessors to exercise any discretion as  
24 to whether they will or will not apply the May 2 guidelines.  
25 Answer, negative, period. The Director ordered that to be

1 used and followed, period. That's his orders and it's up  
2 to them to follow his directive, period. Does that  
3 correctly state your position with respect to the  
4 permissibility of deviation from those guidelines by the  
5 county appraisers?

6 A. No, it would not.

7 Q. What then is your position with respect to  
8 deviations?

9 A. That they can deviate from our guidelines with  
10 documentation as to why they did.

11 Q. Have you informed Mr. Kingman that his position  
12 stated in the deposition is incorrect?

13 A. No, I have not.

14 Q. Is it permissible under Kansas law to tax  
15 identical personal property at different values depending  
16 upon the business in which the property is used.

17 MR. WHITTMORE: I'm going to object to that  
18 question. It's been asked several times in this deposition  
19 and you're just plowing old ground. Mr. Troup went through  
20 that.

21 MR. TROUP: He hasn't asked that.

22 MR. DICKINSON: With all due respect, Mr.  
23 Whittmore, I have carefully phrased it.

24 MR. WHITTMORE: You have twelve minutes.

25 MR. DICKINSON: Thank you.

1 from there.

2 A. I thought you said we were going to get over it  
3 in two or three minutes.

4 Q. Well, that was--

5 MR. TROUP: That was without objections.

6 MR. WHITTMORE: This was with the one question.

7 Q. I have three or four. Is it permissible under  
8 Kansas law to tax personal property at different values  
9 depending upon the respective incomes earned by the  
10 different users of that identical property?

11 A. Perhaps.

12 MR. WHITTMORE: I'm going to object to that one  
13 too?

14 MR. TROUP: He has answer it.

15 Q. Under what circumstances would that be  
16 appropriate?

17 A. I can't go into that at this point. They're  
18 hypotheticals. Most of your questions are hypothetical  
19 questions. If you would be concrete with me in terms of  
20 facts that you've got, I'll answer it.

21 MR. DICKINSON: I have no more questions.

22 MR. WHITTMORE: Counsel, any further questions?

23 MR. TROUP: (Counsel shakes head back and forth)

24 MR. WHITTMORE: No questions.

25 MR. TROUP: No, they'll probably get referred

GENERAL FOODS MANUFACTURING CORPORATION

TESTIMONY BEFORE THE KANSAS SENATE  
COMMITTEE ON ASSESSMENT AND TAXATION

Attachment #5

JANUARY 28, 1984

Chairman Burke, members of the Assessment and Taxation Committee, thank you for the opportunity to address you this morning.

I am Herman Simon, Plant Manager of General Foods Manufacturing Corporation's plant here in Topeka. The facility is one of two locations that manufacture dog food in the United States for the Gaines Pet Foods Division of General Foods.

Actually, we have two plants in Topeka. The first one began operation in 1971, while the second was commissioned in 1974. There are 245 people employed at the present time. As a site we spend in the order of \$60 million annually for materials, goods, energy, service, parts and payroll. Seventy-five percent of these expenditures are with firms in Kansas.

General Foods came to Topeka for a variety of reasons:

1. To be close to the source of raw materials.
2. Good transportation.
3. Favorable business conditions in terms of labor availability and cost of energy and utilities, and taxes.

The reasons for selecting Kansas are as valid today as when the decision was made to locate here more than a decade ago, except for one - taxes.

In 13 years our property taxes increased at a reasonable rate of about 7% a year until last year. IN 1983 GENERAL FOODS' TAXES WENT UP 40%! A tax increase of this magnitude in any single year indicated one of two things. If the tax law is fair, reasonable and equitable, then it is not being administered properly. If it is in fact being administered appropriately, then there is surely something fundamentally inequitable or arbitrary about the law.

I would like to make two points concerning the impact of taxes on General Foods' business. General Foods assigns production volume to the plant that produces and distributes its products at the lowest cost. The Topeka plant has an enviable record over the years of containing costs which it can control. Uncontrollable costs, of which taxes are a part, are another matter. As uncontrollable costs rise, the plant comes under heavy pressure to compete. Eventually, it can raise

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costs to a level that causes production to be shifted elsewhere, a condition which might no longer enable us to gainfully employ all 245 individuals. The second point to be made is that when the time arrives to consider expansion, or locating another new facility, the tax structure will be one of the principal selection criteria. You can be assured that the present tax law and/or the way it is being administered will no longer be considered as favorable a factor as when General Foods selected Topeka, Kansas in 1969.

The current tax law, which uses trended cost factors for setting personal property valuation guides, has shifted a disproportionate share of the tax burden on business and industry. I have pointed out the inequity in the present law to firms doing business in the State of Kansas and submit two viable alternatives to trended cost factors for your consideration and enactment.

1. Establish an equitable property tax base through reappraisal of all classes of real property throughout the state, Further, to phase in this new base over several years so it does not place a heavy first year burden on any one group in the private sector.

OR

2. Base property valuation guides on historic costs and depreciate the value over the useful life of equipment and facilities.

Thank you.