

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ECHOSTAR SATELLITE, L.L.C.,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No. 44034</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 4, 2005, Sondra W. Mercier, Karen E. Hart, and Lyle D. Hansen presiding. Petitioner was represented by Alan Poe, Esq.. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2004 valuation of the subject property, contending that the property is exempt pursuant to §39-3-119 C.R.S. and Colo. Const., art. X, §3(1)(c).

PROPERTY DESCRIPTION:

The subject property is described as follows:

Arapahoe County Schedule Nos. 27394-59414-001 through 27394-59414-012

The subject property consists of set top boxes or receivers (Boxes) and low-noise block filters (LNBFs). The Boxes and LNBFs are located at hundreds of service addresses of EchoStar’s customers in Arapahoe County. The Boxes and LNBFs are leased to consumers in Arapahoe County for utilization in television signal reception by individual end users.

FINDINGS OF FACT:

1. Petitioner contended that if each Box and each LNBF, or each Box and LNBF combined, constitutes one “item” under the guideline established by tax law, then the Boxes and LNBFs are exempt as the items are held for consumption by a business.

2. Petitioner presented the following in support of its argument:
 - a. EchoStar purchases the Boxes and LNBFs separately.
 - b. The Boxes and LNBFs are produced by different manufacturers.
 - c. EchoStar purchases the individual items from manufacturers at different times of the year.
 - d. Each Box and LNBF performs an individual function.
 - e. Each Box and LNBF is ready for installation with no assembly necessary.
 - f. Each Box and LNBF is recorded in EchoStar's accounting system as a separate asset.
 - g. Each Box and LNBF could be used with a television signal provider other than EchoStar.
 - h. Each Box and LNBF is leased to one consumer.
 - i. Each Box and LNBF is considered to be a system in its individual performance.
 - j. The acquisition cost of each Box and LNBF is less than \$250.00.
3. Petitioner requested reclassification of the subject property to exempt.
4. Respondent contended that the subject property is taxable based on the following:
 - a. The Boxes and LNBFs are not individual "items," they are components of a larger system.
 - b. The Boxes and LNBFs cannot provide a television signal to an individual user without being connected to the total EchoStar system.
5. Respondent assigned an actual value of \$806,242.00 to the subject property for tax year 2004; however, the parties stipulated to an actual value of \$708,262.00 in the event the Board determined that the subject property was not exempt.

CONCLUSIONS OF LAW:

1. Petitioner presented sufficient probative evidence and testimony to prove that the subject property should be classified as exempt for tax year 2004.
2. Although the Boxes and LNBFs function together, each item performs a unique operation. The items are produced by different manufacturers, purchased separately and recorded as separate assets. Each item is capable of functioning with non-EchoStar signal providers. When an EchoStar customer relocates, the LNBF stays in its original location while the Box moves with the customer. As such, the Board concluded that the Boxes and LNBF's are individual "items" and not part of a larger system.
3. Pursuant to §39-3-119 C.R.S., "Inventories or merchandise and materials and supplies that are held for consumption by any business or are held primarily for sale shall be exempt from the

levy and collection of property tax.” The subject property clearly meets the statutory guidelines for exemption.

3. Volume V of the Assessor’s Reference Library indicates that, in order for personal property to be considered “consumable,” the item must fall under one of two criteria:

- a. The item must have an economic life of one (1) year or less.
- b. The item of personal property has an economic life exceeding one year, but has an acquisition cost, inclusive of installation cost, sales tax, and freight expense to the point of use, of \$250 or less.

The subject property has an economic life exceeding one year, but an acquisition cost of less than \$250.00. The subject property meets the criteria for “consumable” personal property as established by the Property Tax Administrator.

4. The Board declares this matter to be of statewide concern.

ORDER:

Respondent is ordered to reclassify the subject personal property to exempt.

The Arapahoe County Assessor is directed to change his records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If Respondent alleges procedural errors or errors of law by this Board, Respondent may petition the Court of Appeals for judicial review within 30 days from the date of this decision.

DATED and MAILED this 3rd day of November 2005.

BOARD OF ASSESSMENT APPEALS

Sondra W Mercier

Sondra W. Mercier

Karen E Hart

Karen E. Hart

Lyle D. Hansen

Lyle D. Hansen

This decision was put on the record

NOV 03 2005

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Penny S. Lowenthal
Penny S. Lowenthal

