

# MARKS & WEINBERG, P.C.

## **Delta Airlines v. Department of Revenue State of Oregon 984 P.2d 836 (Ore., 2000)**

Delta challenged the Department of Revenue's (the "Department") assessment of property value used in calculating the ad valorem tax due. This case provides a nice summary of the various valuation approaches or value indicators utilized for purposes of ad valorem taxes: the income approach, the cost approach, and the market based stock and debt approach. The case also discusses the standard of review applicable with respect to tax Court decisions of cases commenced before 1997 and whether a "leased equipment adjustment" should be utilized in any value indicator approach.

A key issue in the case was whether or not a lease adjustment should be utilized to help distinguish the value of leased property from the value of owned property. Delta argued that the concept of the unit valuation required to be used for ad valorem purposes, seeks to value the integrated set of assets as one single operating unit and it was therefore inappropriate to have a separate adjustment for lease equipment and that so doing would be confusing the unit approach with a summation concept. The Department responded that the unit evaluation seeks to nearly capture the "incremental increase in value that derives from the operation of several assets as a unit. As such, without having a separate lease adjustment, because of the different value of leased property than owned property, the unit approach would merely measure the incremental benefit derived from owned property rather than from owned and leased property operating as a unit.



The Court did not analyze whether a lease adjustment should or should not be utilized for policy reasons, rather relying on administrative rule issued under the authority of the statute. That rule requires that “[t]he reconciled unit value as spent shall be adjusted to include taxable property not included in the unit, i.e., full value of Lessor’s interest and equipment leased from others which would include nontaxable property included in the unit.” As such a lease adjustment should be utilized.

Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit [leaselawyer.com](http://leaselawyer.com) or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

