



COMMONWEALTH of VIRGINIA

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February 25, 2009

The Honorable Emmett W. Hanger, Jr.
Member, Senate of Virginia
P.O. Box 2
Mt. Solon, Virginia 22842

Dear Senator Hanger:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You inquire concerning the meaning of the term “original cost” as it is used in § 58.1-3503(A)(17).

Response

It is my opinion that the term “original cost” means the acquisition cost of property from the manufacturer or dealer, *i.e.*, the original cost paid by the original purchaser of such property from the manufacturer or dealer.

Background

You inquire regarding the definition of the term “original cost” as it is used in § 58.1-3503(A)(17) when a taxpayer purchases used personal property employed in a trade or business from a seller who has been paying tax to the same jurisdiction for such personal property. You advise that in one case a taxpayer sold personal property employed in a trade or business to a new owner at a price much less than the initial purchase price.

You suggest that the original cost of personal property employed in a trade or business could be defined as either the price paid for the personal property when it originally was purchased from a manufacturer or dealer or the price paid by a subsequent purchaser. You observe that § 58.1-3503(A)(17) does not define “original cost.”

Applicable Law and Discussion

Section 58.1-3503(A)(17) provides:

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for the rate purposes:

17. All tangible personal property employed in a trade or business other than that described in subdivisions 1 through 16 of this subsection, which shall be valued by means of a percentage or percentages of original cost.

The General Assembly has not provided a definition for the term “original cost” within the context of § 58.1-3503(A)(17). Statutory construction requires that words be given their ordinary meaning, given the context in which they are used.¹ This particularly is the case when the words are not expressly defined by statute.² Absent a statutory definition, the plain and ordinary meaning of the term is controlling.³ The term “cost” means the “amount paid or charged for something; price or expenditure.”⁴ “Original cost” or “acquisition cost” means “[a]n asset’s net price; the original cost of an asset.—Also termed *historical cost*; *original cost*.”⁵

Based on these definitions, the plain and ordinary meaning of the term “original cost” is the cost of the personal property employed in a trade or business paid by the owner who first purchased the personal property from either a manufacturer or dealer. In other words, the cost paid by the original, or first, purchaser of such personal property.

Conclusion

Accordingly, it is my opinion that the term “original cost” means the acquisition cost of property from the manufacturer or dealer, *i.e.*, the original cost paid by the original purchaser of such property from the manufacturer or dealer.

Thank you for letting me be of service to you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'W. C. Mims', with a stylized flourish at the end.

William C. Mims
Acting Attorney General

1:213; 1:941/08-109

¹ Va. Beach v. Bd. of Supvrs., 246 Va. 233, 236, 435 S.E.2d 382, 384 (1993).

² See McKeon v. Commonwealth, 211 Va. 24, 27, 175 S.E.2d 282, 284 (1970).

³ See Sansom v. Bd. of Supvrs., 257 Va. 589, 594-95, 514 S.E.2d 345, 349 (1999); Commonwealth v. Orange-Madison Coop. Farm Serv., 220 Va. 655, 658, 261 S.E.2d 532, 533-34 (1980).

⁴ BLACK’S LAW DICTIONARY 371 (8th ed. 2004).

⁵ *Id.* at 371 (defining “acquisition cost”) (emphasis in original); see *id.* at 1133 (defining “original cost” by reference to “acquisition cost”).