

STATE OF NEW YORK

TAX APPEALS TRIBUNAL

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In the Matter of the Petition

of

GOLDOME CAPITAL INVESTMENTS, INC.  
f/k/a GOLDEN BUFFALO, INC.

ORDER  
DTA #802506

for Revision of a Determination or for Refund :  
of Tax on Gains Derived from Certain Real  
Property Transfers under Article 31-B of the :  
Tax Law.

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On September 14, 1988 the Division of Taxation made a motion for leave to reargue Matter of Goldome Capital Investments, Inc. f/k/a Golden Buffalo, Inc. (Tax Appeals Tribunal, September 1, 1988). In ~~Goldome~~ the parties stipulated that "The \$50,800,000 allocated by the transferor and transferee of 745 Fifth Avenue represents the fair market value, at the time, ~~of~~ the interest in real property being transferred" (20 NYCRR 3000.7[e]).

This Tribunal decided that the only issue before it was whether the fair market value of the property is the appropriate measure of consideration for the transaction. We concluded in the affirmative citing Tax Law section 1440.1(c) which provides "In the case of a transfer of a controlling interest in an entity with an interest in real property, there shall be an apportionment of the fair market value of the interest in real property to the controlling interest for the purpose of ascertaining the consideration for the transfer of the controlling interest."

Since the parties stipulated that \$50,800,000 was the fair market value of the property, we concluded that the Division improperly adjusted the amount upwards.

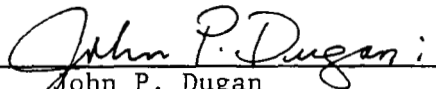
There is no specific statutory authority authorizing this Tribunal to reconsider its decisions. In the absence of such a statute, our authority, as a quasi judicial body, to reconsider our own decisions is limited. (Matter of Evans v. Monaghan, 306 NY 312, 322 [1954]; Matter of Gonzales v. Jones, 115 AD2d 849, 850 [3d Dept 1985].)


The decision in Goldome was reached after a thorough review of the entire record in the matter. The motion before us indicates no circumstances which would allow this Tribunal to reconsider this decision.

Accordingly, the motion for leave to reargue is denied.

Dated: Albany, New York

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John P. Dugan  
President

  
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Francis R. Koenig  
Commissioner