

# HEALTH CARE PROPERTY TAX EXEMPTIONS

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**CITY OF LA CROSSE VS. WISCONSIN  
DEPARTMENT OF REVENUE VS.  
GUNDERSEN CLINIC, LTD.**

ISSUE: WHETHER VARIOUS MEDICAL  
DEVICES QUALIFY FOR EXEMPTION  
UNDER CH. 70.11(39) WI STATS

**“IF IT WALKS LIKE A DUCK.....”**

3. Varian 21EXi<sup>®</sup> Radiotherapy Linear Accelerator

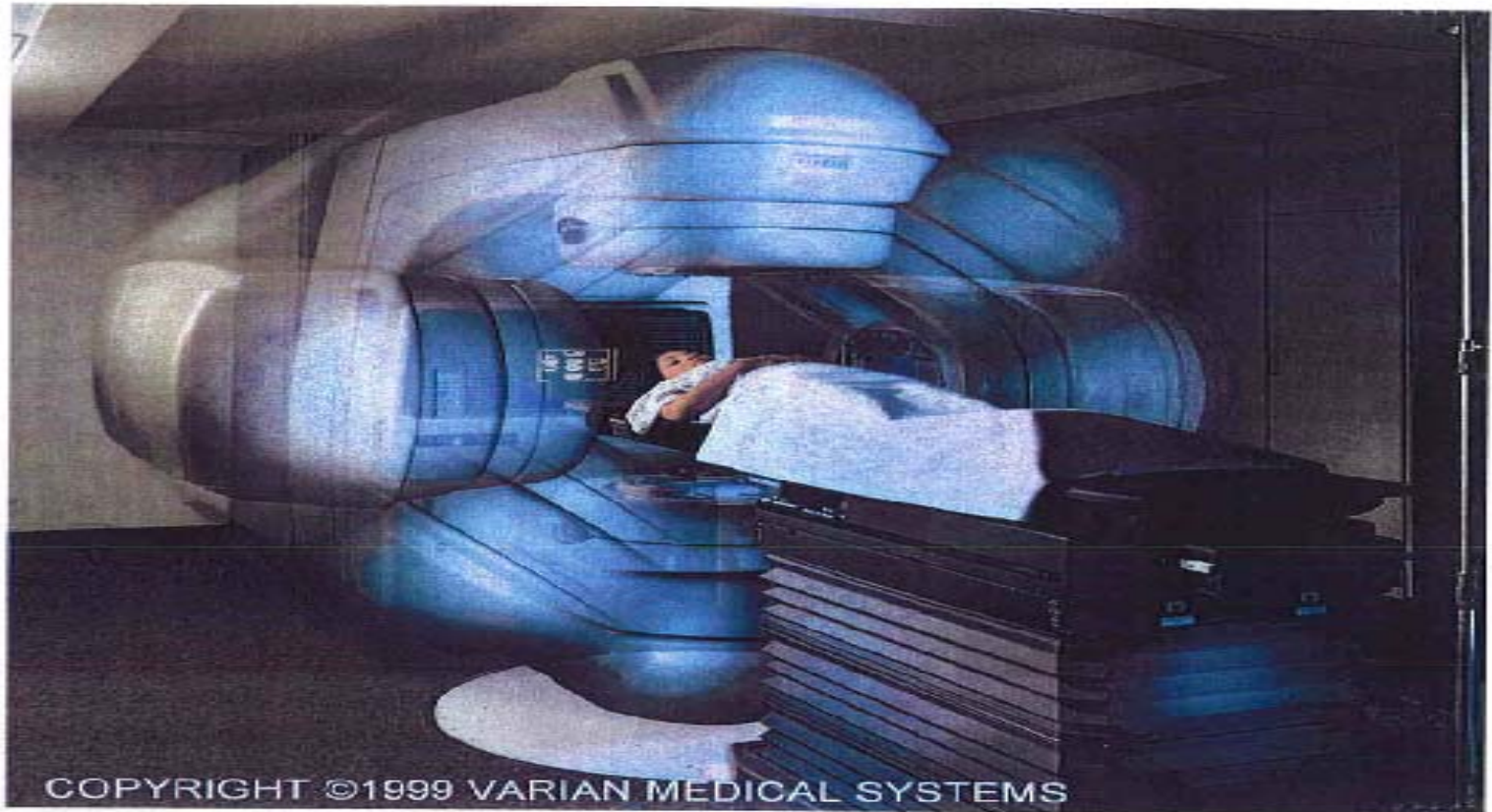
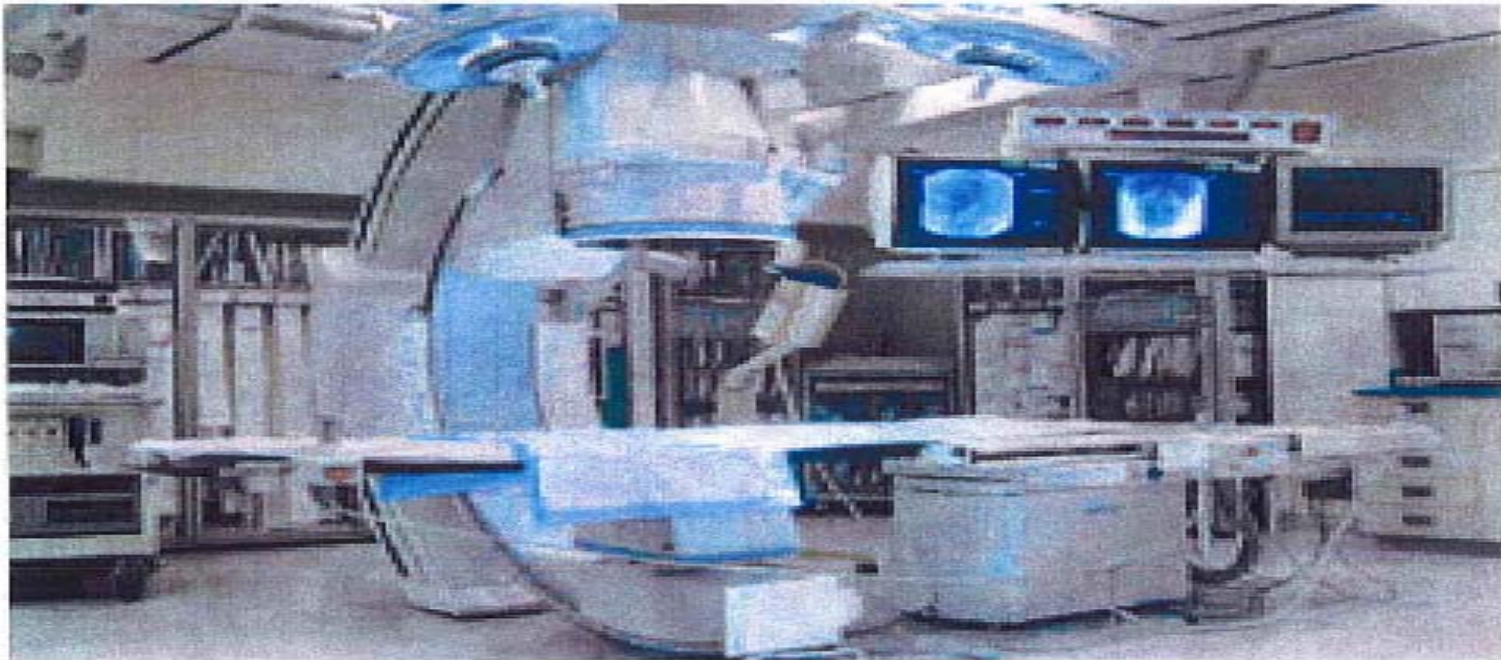


Image from: [http://varian.mediaroom.com/index.php?s=media\\_library&cat=2](http://varian.mediaroom.com/index.php?s=media_library&cat=2)

5. Siemens Multistar TOP Special Procedures Laboratory



Device at Oregon Health and Science University Hospital (OHSU)  
Image from: <http://www.ohsu.edu/dotter/clinical.htm>

8. Siemens Multistar TOP Special Procedures Laboratory



Image from: <http://www.medical.siemens.com/webapp/wcs/stores/servlet/ProductDisplay?catTree=100001,1001262,1001263,1001266,137639&catalogId=-1&langId=-1&productId=137639&storeId=-10001>

**WE SAY, THEY SAY**

- ***WE SAY:*** THE ITEMS OF EQUIPMENT ARE SINGLE PURPOSE, INTEGRATED MEDICAL DEVICES THAT CONTAIN ELECTRONIC COMPUTERIZED COMPONENTS. THEY FAIL THE EXEMPTION TEST.
- ***THEY SAY:*** THE ITEMS OF EQUIPMENT ARE EXEMPT PERIPHERALS BECAUSE THEY EITHER CONTAIN A COMPUTER, OR ARE CONNECTED TO ONE.

# SUMMARY OF PROCESS THAT GOT US TO THIS POINT

- GUNDERSEN SHIFTED MILLIONS OF DOLLARS OF EQUIPMENT FROM TAXABLE TO EXEMPT ON PP FORM
- PARTIES AGREED ON NINE MAIN CATEGORIES OF EQUIPMENT TO REVIEW
- LA CROSSE DETERMINED MOST OF MEDICAL EQUIPMENT DID NOT QUALIFY FOR EXEMPTION

- GUNDERSEN APPEALED TO BOARD OF ASSESSORS
- BOA AGREED WITH GUNDERSEN
- LA CROSSE APPEALED TO TAC
- TAC RULED IN FAVOR OF GUNDERSEN
- LA CROSSE IS APPEALING TO CIRCUIT COURT

# ASSESSMENT AND TAX DIFFERENCES

- FOR TAX YEAR 2009:
- GUNDERSEN REPORTED:
  - 9 MILLION TAXABLE (TAX = \$252,000)
  - 40 MILLION EXEMPT
- LA CROSSE ADJUSTED TO:
  - 25 MILLION TAXABLE (TAX = \$710,000)
  - 13.7 MILLION EXEMPT

# XEROX, GUNDERSEN, THE GUIDELINES, AND THE LAW

- XEROX APPELLATE COURT DECISION STATES THAT TO BE EXEMPT, A DEVICE MUST BE ONE OF THE ITEMS LISTED IN THE STATUTES – NOT JUST CONTAIN ONE OF THE ITEMS.
- THE GUNDERSEN TAC DECISION AND THE GUIDELINES ARE CONTRADICTED BY XEROX.

**WHAT NOW?**

- TAC DECISION UNDER APPEAL IN DANE COUNTY CIRCUIT COURT
- XEROX APPELLATE COURT DECISION FAVORABLE
- XEROX DENIED HEARING BY SUPREME COURT
- ASSESSORS MUST PUT BURDEN OF PROOF ON TAXPAYER CLAIMING EXEMPTION
- IF NOT CLEAR, TAXATION IS THE RULE