

REPRESENTATIVE FOR PETITIONER:
Joseph Hochgesang, Controller, Schaefer Technologies, Inc.

REPRESENTATIVE FOR RESPONDENT:
None

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Schaefer Technologies, Inc,)	Petition No.: 49-407-02-1-7-10748
)	Parcel: Personal Property
Petitioner,)	
)	
v.)	
)	Marion County
Lawrence Township Assessor,)	Lawrence Township
)	Assessment Year: 2002
Respondent.)	

Appeal from the Final Determination of the
Marion County Property Tax Assessment Board of Appeals

April 10, 2006

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the facts and evidence presented in this case. The Board now enters its findings of fact and conclusions of law on the following issue:
Can Petitioner file an amended 2002 personal property tax return more than six months after the filing date of its original return?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

PROCEDURAL HISTORY

1. Petitioner timely filed an original 2002 personal property tax return on May 13, 2002. *Bd Ex. A, attachment labeled Notification of Final Assessment Determination (Form 115)*. Petitioner then filed an amended return, claiming a reduction in the assessment based on interstate commerce exemption on August 5, 2003. *Pet'r Ex. 1*.
2. The Lawrence Township Assessor denied the amendment and made no adjustment to the assessment. Petitioner appealed to the Marion County Property Tax Assessment Board of Appeals (PTABOA). The PTABOA issued its determination on August 26, 2005. It denied Petitioner's appeal because the amended return was not timely: "Pursuant to IC 6-1.1-3-7.5, Amended Returns must be filed within 6 months of the filing date. Original Return was filed 5/13/2002. Amended Return was filed 8/8/2003, which exceeds the statute driven time restrictions." *Bd Ex. A, attachment labeled Notification of Final Assessment Determination (Form 115)*.
3. Pursuant to Ind. Code § 6-1.1-15-3, Petitioner filed a Form 131 petitioning the Board to conduct an administrative review of the above petition. The Form 131 was filed with the county assessor on September 23, 2005.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on February 15, 2006, in Indianapolis, Indiana. Paul Stultz, the duly designated Administrative Law Judge authorized by the Board under Ind. Code § 6-1.5-3-3, presided at the hearing.
5. Joseph Hochgesang, Controller for Schaefer Technologies, Inc., was sworn as a witness. No one appeared at the hearing on behalf of the Respondent.

6. The Form 131 petition is part of the record and labeled as Board Exhibit A. The Notice of Hearing is part of the record as Board Exhibit B.
7. The following exhibits were admitted at the hearing:
 - Petitioner Exhibit 1 – Timeline of Events,
 - Petitioner Exhibit 2 – Letter to Joe Hochgesang from F. Paul Ricketts, Lawrence Township Assessor, dated November 30, 2005,
 - Petitioner Exhibit 3 - Letter to Joe Hochgesang from F. Paul Ricketts dated January 27, 2006.
8. The personal property is located at 4251 North Shadeland Avenue, Indianapolis, Indiana.
9. The Administrative Law Judge did not view the subject property.
10. At the hearing, Petitioner acknowledged the year under appeal is 2002 and the value of record is \$1,098,940.

JURISDICTION

11. This matter is governed by the provisions of Ind. Code § 6-1.1-15, and all other laws relevant and applicable to appeals initiated under those provisions, including all case law pertaining to property tax assessment or matters of administrative law and process. The Board is authorized to issue a final determination pursuant to Ind. Code § 6-1.1-15-4.

STATE REVIEW AND PETITIONER'S BURDEN

12. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that determination is incorrect. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

13. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).

ANALYSIS

14. Indiana’s personal property tax system is a self-assessment system. *See Paul Heuring Motors, Inc. v. State Bd. of Tax Comm’rs*, 620 N.E.2d 39, 41 (Ind. Tax Ct. 1993). Every person, including any firm, company, partnership, association, corporation, fiduciary, or individual owning, holding, possessing, or controlling personal property with a tax situs within Indiana on March 1 of any year is required to file a personal property tax return on or before May 15 of that year unless an extension of time to file is obtained. Ind. Code § 6-1.1-1-7; Ind. Code § 6-1.1-3-7; 50 IAC 4.2-1-1(e); 50 IAC 4.2-2-2.
15. The time limitation for a taxpayer amendment to a return is specific:
- (a) A taxpayer may file an amended personal property tax return, in conformity with the rules adopted by the department of local government finance, not more than six (6) months after the later of the following:
 - (1) The filing date for the original personal property tax return, if the taxpayer is not granted an extension in which to file under section 7 of this chapter.
 - (2) The extension date for the original personal property tax return, if the taxpayer is granted an extension under section 7 of this chapter.
 - (b) A tax adjustment related to an amended personal property tax return shall be made in conformity with rules adopted under IC 4-22-2 by the department of local government finance.
 - (c) If a taxpayer wishes to correct an error made by the taxpayer on the taxpayer's original personal property tax return, the taxpayer must file an amended personal property tax return under this section within the time required by subsection (a). A taxpayer may claim on an amended personal property tax return any adjustment or exemption that would have been allowable under any statute or rule adopted by the department of local government finance if the adjustment or exemption had been claimed on the original personal property tax return.

Ind. Code § 6-1.1-3-7.5 (2002)

16. Respondent audited Petitioner's personal property tax returns for the years of 2003, 2004, and 2005. *Hochgesang testimony; Pet'r Exs. 2, 3*. Petitioner contended that, because the township assessor has three years to change an assessment, taxpayers also should have three years to amend personal property returns.¹ *Hochgesang testimony; Bd Ex. A*. Petitioner provided no substantial argument or authority to support that position.
17. Clear and unambiguous statutory language is not subject to interpretation or construction. *Huntington Co. Comm. School Corp. v. State Bd. of Tax Comm'rs*, 757 N.E.2d 235, 240 (Ind. Tax Ct. 2001); *Zakutansky v. State Bd. of Tax Comm'rs*, 758 N.E.2d 103 (Ind. Tax Ct. 2001); *Joyce Sportswear Co. v. State Bd. of Tax Comm'rs*, 684 N.E.2d 1189, 1192 (Ind. Tax Ct. 1997). Unambiguous language within a statute cannot be construed in a manner that expands or limits its function. *Id.*
18. The plain language of Ind. Code § 6-1.1-3-7.5 allows a Petitioner to file an amended personal property tax return within six months of the filing or extension date. Petitioner did not assert that it received an extension of time in which to file its original personal property tax return, which it filed on May 13, 2002. To modify the original return, Petitioner would be required to file an amended return by November 15, 2002. The amended return was not filed until August 5, 2003.
19. Petitioner failed to make a prima facie case that the PTABOA erred when it found the amended return was untimely and made no adjustment to the assessment based on it. When a taxpayer fails to provide probative evidence supporting its position, Respondent's duty to support the assessment with substantial evidence is not triggered. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

¹ See Ind. Code § 6-1.1-9-3; Ind. Code § 6-1.1-16-1.

SUMMARY OF FINAL DETERMINATION

20. Petitioner did not make a prima facie case. The Board finds for Respondent.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.