REPRESENTATIVE FOR PETITIONER:
John (Jack) F. Fiene, Integrity Tax Consulting

REPRESENTATIVE FOR RESPONDENT:
Charles K. Todd, Jr., Todd Law Office

# BEFORE THE
# INDIANA BOARD OF TAX REVIEW

| | | |
|---|---|---|
| CINRAM, INC., | ) | Petition No.: 89-030-05-1-7-00008 |
| | ) | |
| Petitioner, | ) | Business Tangible Personal Property |
| | ) | |
| v. | ) | |
| | ) | County: Wayne |
| WAYNE TOWNSHIP | ) | Township: Wayne |
| ASSESSOR | ) | |
| | ) | |
| Respondent. | ) | Assessment Year: 2005 |

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

**July 26, 2007**

## FINAL DETERMINATION

The Indiana Board of Tax Review ("Board") having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Issues

1. *May the Petitioner seek an assessment different from what it claimed on its amended return?*

2. *Is the Petitioner entitled to exemptions and an obsolescence adjustment that it did not claim on its original return?*

3. *Did the Petitioner make a prima facie case that the assessment of its business personal property is incorrect?*

**Procedural History**

4. The Petitioner, Cinram, Inc. filed a Form 103 Business Tangible Personal Property Assessment Return ("original return") for the March 1, 2005, assessment date on which it reported true tax value of $15,421,090. On November 14, 2005, the Petitioner filed an amended Form 103 ("amended return") correcting what it claimed were errors on its original return and reporting true tax value of $13,266,660.

5. On December 20, 2005, the Respondent, Wayne Township Assessor, mailed a Notice of Assessment Change ("Form 113/PP") to the Petitioner denying its amended return. On January 26, 2006, the Petitioner responded by filing a petition requesting the Wayne County Property Tax Assessment Board of Appeals ("PTABOA") to review its assessment. On April 24, 2006, the PTABOA issued a final determination denying the Petitioner relief and determining the Petitioner's assessment to be $15,421,090.

6. The Petitioner appealed the PTABOA's determination by filing a Petition to the Indiana Board of Tax Review for Review of Assessment ("Form 131") on May 19, 2006. The Board has jurisdiction over the Petitioner's appeal under Ind. Code §§ 6-1.1-15 and 6-1.5-4-1.

7. The Board held an administrative hearing on May 1, 2007, before its duly appointed Administrative Law Judge, Joseph Stanford ("ALJ"). The hearing occurred in Richmond, Indiana.

8. The following persons were sworn as witnesses at the hearing:

For the Petitioner:

John (Jack) F. Fiene, Integrity Tax Consulting
Kristi Haiflich, Integrity Tax Consulting
Scott Jenkinson, Maintenance Supervisor, Cinram, Inc.
Kelli L. Seitz, Corporate Controller, Cinram, Inc.
Todd Loyd, Accounting Manager, Cinram, Inc.

For the Respondent:

Susan Isaacs, Tax Abatement Personal Property Clerk, Wayne Township Assessor's Office
Betty R. Smith, Wayne Township Assessor
Joseph L. Kaiser, President, PTABOA
Michael P. Statzer, Secretary, PTABOA
Richard D. Lee, Member, PTABOA
Dan Williams, Member, PTABOA
Marie Elstro, Member, PTABOA

9. The following exhibits were presented:

For the Petitioner:

Petitioner Exhibit A – Chronological Order of Events
Petitioner Exhibit B – Affidavit of John Finnegan, Vice President of Operations, Cinram, Inc.
Petitioner Exhibit C – Request for PTABOA Transcript
Petitioner Exhibit D – Revised 2005 List of Removals/Changes to Personal Property Tax Return
Petitioner Exhibit E – Proposed List of Assets to Report on the Personal Property Tax Return
Petitioner Exhibit F – Form 131 Petition
Petitioner Exhibit G – Recalculation of Assessed Value
Petitioner Exhibit H – Supplemental Schedules to CF-1 and/or Form 322 ERA/PP
Petitioner Exhibit I – Evidence Submitted at PTABOA Hearing

For the Respondent:

Respondent Exhibit 8 – April 4, 2007, E-mail and Attachment from Kristi Haiflich to Betty Smith[1]

10. The following additional items are officially recognized as part of the record of proceedings:

[1] The Respondent filed with the Board its "Summary of Witness Testimony and Exchange of Evidence," which it served on the Petitioner. Exhibits 1-7of that packet include what appear to the Petitioner's original and amended returns as well as several other items. The Respondent, however, did not offer Exhibits 1-7 into evidence, and the Board therefore does not consider those exhibits in reaching its decision.

Board Exhibit A – Form 131 Petition with Attachments
Board Exhibit B – Notice of Hearing dated March 8, 2007
Board Exhibit C – Hearing Sign-In Sheet

11. The ALJ did not inspect the subject property.

12. On its Form 131 petition, the Petitioner requested an assessment of $13,659,670. At the hearing, the Petitioner requested an assessment of $13,945,440.

## Objections

Pre-Hearing Disclosures

13. The Respondent objected to all of the testimony and exhibits offered by the Petitioner, arguing that the Petitioner did not provide its list of witnesses and exhibits at least 15 business days before the start of the hearing as required by the Board's procedural rules. According to the Respondent, the Petitioner should have provided its witness and exhibit lists to the Respondent by April 10, 2007. The Petitioner, however, forwarded its witness and exhibit lists, *via* overnight mail, on April 12, 2007. *Todd objection.*

14. While the Petitioner acknowledged that it did not timely serve its witness and exhibit lists, it noted that it did timely provide the Respondent with copies of its exhibits and summaries of its witnesses' anticipated testimony. The Petitioner also contended that all of its witnesses were present at the PTABOA hearing, and that most of its exhibits either were offered at the PTABOA hearing or introduced by the Respondent. *See Fiene testimony, argument*.

15. The Respondent acknowledged that the Petitioner timely provided its testimony summaries and copies of its exhibits. Nonetheless, the Respondent argued that the Board strictly follows its procedural rules and that the Petitioner's failure to timely exchange its witness and exhibit lists therefore requires the Board to exclude all of the Petitioner's proffered evidence. Also, the Respondent's counsel was not present at the PTABOA hearing. Thus, in the Respondent's view, admitting the Petitioner's evidence simply because it was offered at the PTABOA hearing would defeat the purpose of the Board's

discovery rules — to allow the parties' representatives to prepare their cases. *Todd argument*.

16. The Board's procedural rules clearly state that each party must provide all other parties a list of the witnesses and exhibits it intends to offer at least 15 business days before any administrative hearing. 52 IAC 2-7-1(b)(2). And the Board *may* exclude evidence based on a party's failure to comply with that deadline. 52 IAC 2-7-1(f). The Board also may waive that deadline for materials that were submitted at the PTABOA hearing below. 52 IAC 2-7-1(d).

17. Here, it is undisputed that the Petitioner failed to timely provide the Respondent with its witness and exhibit lists. Nonetheless, the Board overrules the Respondent's objection. The Respondent did not dispute Mr. Fiene's testimony that all of the Petitioner's witnesses were present at the PTABOA hearing. Thus, the Respondent was on notice that the Petitioner might call those witnesses to testify at the Board hearing. And the Respondent timely received summaries of the witnesses' anticipated testimony. Similarly, almost all of the information contained in the Petitioner's exhibits was either introduced at the PTABOA hearing or provided to the Respondent before the deadline for exchanging witness and exhibit lists, albeit not necessarily in the same form as the exhibits offered by the Petitioner at the Board's hearing. *See Fiene testimony; Haiflich testimony; Pet'r Exs. A-I; Resp't Ex. 8.* And, as with the Petitioner's testimony summaries, the Respondent timely received copies of the Petitioner's exhibits.

18. That being said, the Board agrees that its pre-hearing disclosure rules exist to allow parties to adequately prepare their cases. Even where a party already generally knows all of the people who may have relevant information about the case and has copies of all the documents the opposing party ultimately offers as evidence, witness and exhibit lists serve to focus the parties' pre-hearing preparation. Nonetheless, it is undisputed that the Petitioners communicated with the Respondent frequently during the period leading up to the hearing. That communication greatly decreased any chance that the Respondent was hampered in preparing its case. And the Respondent received the Petitioner's witness and exhibit lists just three business days past the deadline.

19. Thus, this case differs from *Trimas Fasteners, Inc. v. Washington Twp. Assessor*, Pet. Nos. 12-014-02-1-3-00006 12-014-02-1-3-00007 (January 3, 2007), which the Respondent cited for the proposition that the Board strictly follows its procedural rules on pre-hearing disclosures. In *Trimas Fasteners*, the Board found that the assessor's representative had deliberately attempted to avoid the Board's pre-hearing disclosure deadlines. In fact, the Board found that the representative had engaged in a "wholesale disregard" for its rules. Slip op. at 7. Indeed, the Board found that, had the assessor "inadvertently missed the specified time for exchanging lists of witnesses and exhibits by a day or two, the argument that the [p]etitioner suffered no harm might be more persuasive." *Id*. In so qualifying its holding, the Board anticipated precisely the case now before it.

Foundation Objection

20. The Respondent also made a "foundation objection" when the Petitioner offered Exhibit B, John Finnegan's affidavit. *Todd objection.* The Respondent prefaced its objection by asking preliminary questions pursuant to which Mr. Fiene testified that he lacked personal knowledge concerning one of the attestations in Mr. Finnegan's affidavit — that the Petitioner had no "official documentation" of assets that Mr. Finnegan claimed either had been disposed of or were located at a different facility. *Todd objection; Fiene testimony.*

21. An objecting party must state specific grounds for its objection unless the grounds are otherwise apparent from its context. *Nassar v. State*, 646 N.E.2d 673, 676 n. 4 (Ind. Ct. App. 1995). While a bare objection to an improper foundation may not suffice,[2] the Respondent's preliminary questions provided enough context to state an objection based on Mr. Fiene's incompetency to testify that the Petitioner lacked "official documentation" that certain assets had either been disposed of or moved to another facility. Mr. Fiene,

[2] *See Payne v. State*, 658 N.E.2d 635, 644 (stating that an objection "as to improper foundation" arguably fails to preserve appellate review).

however, did not testify to those facts, relying instead on Mr. Finnegan's affidavit. The Board therefore overrules the Respondent's objection as moot.

## Findings of Fact

22. The Petitioner reported business personal property with a true tax value of $15,421,090 on its original return. *Fiene testimony*. On October 20, 2005, however, Mr. Fiene became involved in the Petitioner's case. *Id.* On or around that date, Mr. Fiene met with Todd Loyd, the Petitioner's accounting manager, and several department heads to review a 23-page fixed-asset list. *Id.* As a result of that meeting and several follow-up telephone calls, the Petitioner filed its amended return, reducing the reported true tax value of its business personal property to $13,266,660. *Id.* According to the Petitioner, the reduction stemmed from errors it had made on its original return in reporting: (1) assets that had been disposed of; (2) real property; (3) exempt software; and (4) special tooling. *See id.; see also, Pet'r Exs. D-E.* The Petitioner conceded that it lacked "official documentation" to show that it had disposed of the assets for which it claimed deductions. *Pet'r Ex. B*; *see also, Jenkinson testimony*. The Petitioner would simply take old equipment off its floor when it bought newer replacement equipment. *Id.* The Petitioner's maintenance supervisor, Scott Jenkinson, would then haul the equipment away and scrap it. *Id.*

23. On December 20, 2005, the Respondent issued its Form 113/PP denying the Petitioner's amended return due to "personal property and real property issues" and assessing the Petitioner's business personal property at $15,421,090 — the amount on the Petitioner's original return. *Fiene testimony.*

24. The Respondent's reference to "real property issues" troubled Mr. Fiene because the asset list he was working with was coded with "leasehold improvements." *Id.* That classification incorrectly defaulted in Integrity Tax Consulting's computer system as real property. *Id.* The Petitioner therefore attached a corrected return to the Form 130 petition that it filed with the PTABOA. *Id.* Although the Petitioner did not offer that revised return into evidence, its Form 130 petition requests an assessment of $13,544,210. *See Board Ex. A.*

25. Mr. Fiene and unidentified other representatives of the Petitioner also met informally with the Respondent's representatives on February 2, 2006, to make sure the Respondent understood that his classification error property was unintentional. *Id.* The Respondent's representatives, however, noted that the Petitioner had not documented the items that it claimed were disposed of, and they requested a list of all assets over $5,000. *Id.* The Petitioner's Vice President of Operations, John Finnegan, therefore signed an affidavit stating:

> I, John Finnegan, Vice President of Operations, do hereby swear that the personal property on the attached list of assets were disposed of or physically located at another facility before March 1 of the corresponding filing year, and assets identified as real property and exempt software are correctly classified.
>
> It is our understanding that documentation has been requested by the assessing officials, but no official documentation is available. Cinram conducted a thorough internal audit to verify that all assets listed on the attachment represent a true and valid statement.

*Pet'r Ex. B*. Although Mr. Finnegan identifies the property solely by reference to an "attached list," there is no list attached to his affidavit. *Pet'r Ex. B*.

26. At the PTABOA hearing on April 13, 2006, the Petitioner submitted revised calculations on a Form 103 return. The return valued the Petitioner's business personal property at $13,659,670. *Id.; Pet'r Ex. I.* The Petitioner also submitted an itemized list of changes reflecting, among other things, the property that it claimed to have disposed of before the March 1, 2005, assessment date. *Id.* Petitioner's Exhibit D is a revised version of that list. *Fiene testimony; Pet'r Ex. D*. The PTABOA rejected the Petitioner's appeal. *Board Ex. A*.

27. The Petitioner appealed the PTABOA's determination to the Board. The parties, however, continued their informal communications. In August 2006, Mr. Fiene met with Michael Statzer, Secretary of the PTABOA. Mr. Statzer was concerned that the Petitioner had deducted depreciable assets for which it had already received a tax

abatement.[3] *Fiene testimony.* Mr. Fiene admitted that the Respondent had raised a valid concern. *Id.*

28. Thus, on April 4, 2007, the Petitioner gave the Respondent a list of assets under abatement that the Petitioner proposed to add back to its amended return. *Resp't Ex. 8.* The Petitioner offered that same list at the Board's hearing, albeit in a slightly different form. *Pet'r Ex. E.* The list presented to the Board also includes assets reclassified as personal property and assets that have not been used in production, but for which the Petitioner now seeks a 5% obsolescence adjustment. *Pet'r Exs. E, G.* The Petitioner additionally submitted a new Form 103 return with all of its proposed changes, resulting in true tax value of $13,945,440. *Fiene testimony; Pet'r Ex. G.*

**Issue I**

*May the Petitioner seek an assessment different from what it claimed on its amended return?*

29. The Respondent contends that Petitioner filed three amended returns and cites to 50 IAC 16-3-1, which limits taxpayers to filing only one amended return. The Respondent apparently contends that the Petitioner is therefore limited to pursuing only what it requested in its November 14, 2005, amended return. The Board disagrees.

30. As related above, the Respondent denied the Petitioner's amended return and assessed the Petitioner's property at $15,421,090 — the amount reflected on the Petitioner's original return. The Petitioner appealed that denial to the PTABOA, which upheld the Respondent's assessment. The Petitioner timely appealed the PTABOA's decision to the Board.

31. The Form 103 returns that Mr. Fiene later provided to the Respondent were not intended as amended returns. The purpose of filing a personal property return is self assessment. The Respondent, however, had already assessed the subject property for $15,421,090 when Mr. Fiene provided the subsequent "returns" to the Respondent. Those "returns" therefore simply reflect the Petitioner's revised calculations that it offered first in an

[3] The Respondent contends that it first raised this issue at the PTABOA hearing. *Isaacs testimony.*

effort to settle its appeal and later as evidence in support of its claims. The fact that a taxpayer takes a position different from what is reflected on its amended return may well hurt its credibility, as is borne out in this case. But the Board does not read 50 IAC 16-3-1 as precluding a taxpayer from doing so.

**Issue II**

*Is the Petitioner entitled to exemptions and an obsolescence adjustment that it did not claim on its original return?*

32. The Respondent also cites to 50 IAC 16-4-1, which provides, among other things, that a taxpayer cannot claim exemptions or obsolescence deductions on an amended return unless it first claimed those items on its original return. 50 IAC 16-4-1.

33. Petitioner's Exhibit D includes deductions for "exempt software" that the Petitioner apparently did not include on its original return. Similarly, Susan Isaacs testified without dispute that the Petitioner did not claim an $11,054 abnormal-obsolescence deduction until shortly before the Board's hearing. *Isaacs testimony; see also, Pet'r Exs. E, G.* The Petitioner therefore failed to establish its entitlement to a reduction in its assessment for exempt software or abnormal obsolescence.

**Issue III**

*Did the Petitioner make a prima facie case that the assessment of its business personal property is incorrect?*

34. A petitioner seeking review of an assessing official's determination has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *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).

35. 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").

36. Once the petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the petitioner's evidence. *Id.; Meridian Towers*, 805 N.E.2d at 479.

37. The Petitioner claims that the current assessment, which is based on its original return, improperly includes special tooling as well as property that it had disposed of before the March 1, 2005, assessment date. While the Petitioner submitted a series of escalating calculations to the Respondent during the course of its appeal, it now claims that the true tax value of its personal property is $13,945,440.

38. The Petitioner, however, did little to prove what the true tax value of its property actually is. Instead it focused largely on explaining the history of its negotiations with the Respondent. But, while the Petitioner premised its case on the fact that its amended return corrected errors on its original return and that its subsequent calculations added back property that should not have been omitted on its amended return, the Petitioner did not even bother to offer either return into evidence.[4]

39. Nonetheless, the Petitioner did submit its final revised calculations on a Form 103 return. *Pet'r Ex. G.* The Petitioner, however, did not offer any probative evidence to support those calculations. Depreciable property assessments are based, in the first instance, on the property's cost per the taxpayer's books and records. 50 IAC 4.2-4-2. If necessary, the cost must be adjusted from book basis to federal tax basis. *See* 50 IAC 4.2-4-4(b). The Petitioner, however, did not introduce its books, records, or federal tax returns. At best, the Petitioner introduced spread sheets that stated both for items it sought to deduct from its original return — disposed of property and special tooling — and for abated items it had incorrectly deducted from its amended return. *Pet'r Exs. D-E.*

40. More significantly, the Petitioner did not submit probative evidence to support its claim that the specified property had been disposed of, much less that it had been disposed of before the March 1, 2005, assessment date. The Petitioner conceded that it had no records to show that it had disposed of many of the items listed on Petitioner's Exhibit D. And Mr. Fiene conceded that he had no personal knowledge that the Petitioner had disposed of those items. At best, Mr. Fiene testified that, on or after October 20, 2005, he met with Todd Loyd, the Petitioner's accounting manager, and several unidentified department heads to review the Petitioner's 23-page fixed-asset list. *Fiene testimony*. Mr. Fiene, however, did not actually testify that he prepared Petitioner's Exhibit D based on those communications. Even if he had, neither Mr. Loyd nor any of those department heads testified at the hearing. Thus, both Mr. Fiene's testimony and Petitioner's Exhibit D are pure hearsay with little or no independent indicia of reliability. *See* Ind. Evidence Rule 801(c) (defining hearsay as "a statement, other than one made by the declarant while testifying at trial or hearing, offered in evidence to prove the truth of the matter asserted."). And, while a physical inspection might have revealed assets that had been disposed of sometime before October 20, 2005, it does little to show what assets were present and being used by the Petitioner on the March 1, 2005, assessment date. Indeed, neither Mr. Fiene's testimony nor Petitioner's Exhibit D addressed disposal dates.

41. Mr. Finnegan's affidavit fares no better. That affidavit itself is hearsay, although Mr. Finnegan's statements were sworn, giving them at least some degree of reliability lacking in Mr. Fiene's hearsay testimony and Petitioner's Exhibit D. But Mr. Finnegan did not aver that he had personal knowledge of the relevant matters set forth in his affidavit — that the property on an attached list either had been disposed of or was physically located at another facility as of the corresponding assessment date, and that the Petitioner had conducted an internal audit to verify that list. *Pet'r Ex. B*. He similarly failed to identify

[4] It is possible that the Petitioner assumed that the Respondent would enter those returns into evidence, given that they were included in the Respondent's Summary of Witness Testimony and Exchange of Evidence *See* note 1, *supra*. A party should not rely on its opponent to introduce evidence that is essential to its claims.

who actually performed the audit or what that audit entailed. *Id.* And the list that he referenced is not even attached to his affidavit. *Id*.

42. The only other evidence concerning the purportedly-disposed-of assets is the testimony of Scott Jenkinson, the Petitioner's maintenance supervisor. Mr. Jenkinson, however, testified only to the Petitioner's general procedures for removing and scrapping equipment. *Jenkinson testimony.* He did not identify any specific items that had been removed. *Id.* Thus, Mr. Jenkinson's testimony does nothing to support the Petitioner's claims that it should not be assessed for the property listed on Petitioner's Exhibit D.

43. The Petitioner also acknowledged that it had received abatements to its March 1, 2005, assessment for equipment that it had disposed of prior to that date. The Petitioner conceded that it would be improper to separately deduct that equipment from its Form 103 return. It therefore added back that equipment in Petitioner's Exhibit G — the revised return containing what the Petitioner now contends reflects its correct assessment. But the Petitioner did not credibly demonstrate that its calculations accounted for all its disposed-of-but-still-abated equipment. The Petitioner submitted a spread sheet listing abated items that it acknowledged should be added back to its amended return. It also submitted Exhibit H, which it claimed reflects all of its abated equipment. That exhibit appears to contain four supplemental schedules filed to support the Petitioner's abatement claims in 1997, 2001, 2003 and 2005. While several of those schedules contained itemized lists of abated equipment, others do not. For example, the 2001 Supplemental Schedule to Form CF-1 contains entries such as "Mastering Machines" with a total cost of $2,790,659. Thus, it is not self evident how to reconcile the equipment listed in Exhibit H with the equipment the Petitioner seeks to add back to its amended return. Indeed, the list of add-backs contains far more entries than the list of abated equipment in Exhibit H. *Compare Ex. H with Ex. E.* More importantly, the lack of itemization in Exhibit H makes it difficult, if not impossible, to determine whether abated items are included on Petitioner's Exhibit D — the list of disposed assets that the Petitioner seeks to deduct from its assessment.

44. The Petitioner did even less to support is claimed reduction for what it apparently contends was its failure to properly classify special tooling on its original return. The Petitioner did not explain why the equipment in question met the definition of "special tools" under 50 IAC 4.2-6-2(b).[5] In fact, other than simply listing certain items as "special tooling" on Exhibit D, the Petitioner did not even address that portion of its claim at the hearing. As noted above, however, "it is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis." *Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004).

45. Finally, the Petitioner's continual revisions in reporting and calculating what it claimed at various times to be correct assessments destroy any credibility its evidence might otherwise have had. The Petitioner has alternately claimed values of $15,421,090, $13,266,660, $13,544,210, $13,659,670, and ultimately, $13,945,440. And the Petitioner made the majority of its changes only after the Respondent pointed out significant errors, such as the Petitioner misclassifying property and 'double dipping' by seeking to deduct property from its return for which it had already received an abatement.

46. For the reasons set forth above, the Board finds the Petitioner's calculation to be unreliable, and insufficient to make a prima facie case that the correct assessment should be $13,945,440. The assessment, therefore, remains $15,421,090.

**Summary of Final Determination**

47. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

[5] "'Special tools' includes, but is not limited to, tools, dies, jigs, fixtures, gauges, molds, and patterns acquired or made for the production of products or product models which are of such specialized nature that their utility generally ceases with the modification or discontinuance of such products or product models." 50 IAC 4.2-6-2(b).

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

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Commissioner, Indiana Board of Tax Review

## IMPORTANT NOTICE

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>