

**STATE OF INDIANA
Board of Tax Review**

ALCOA CLOSURE SYSTEMS)	On Appeal from the Marion County
INTERNATIONAL)	Property Tax Assessment Board
)	of Appeals
Petitioner,)	
)	
v.)	Petition for Review of Assessment, Form 131
)	Petition No. 49-900-00-1-7-00672
MARION COUNTY PROPERTY TAX)	Parcel No. 1121287
ASSESSMENT BOARD OF APPEALS)	
And WAYNE TOWNSHIP ASSESSOR,)	
)	
Respondents.)	

Findings of Fact and Conclusions of Law

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as "State". The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Issue

Whether the Petitioner computed the average inventory correctly.

Findings of Fact

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also if appropriate, any conclusion of law made herein shall also be considered a finding of fact.

2. Pursuant to Ind. Code § 6-1.1-15-3, Alcoa Closure Systems International (Petitioner) filed a Form 131 petition requesting a review by the State. The Form 131 petition was filed on July 20, 2001. The determination of the Marion County Property Tax Assessment Board of Appeals (PTABOA) on the underlying Form 130 is dated June 22, 2001.
3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on October 30, 2001 before Hearing Officer Paul Stultz. Testimony and exhibits were received into evidence. Ms. Deborah Dillinger, Administrator – Property Taxes, represented the Petitioner. Ms. Tara Acton, Deputy Assessor, and Ms. Jewell Powell, Deputy Assessor, represented Wayne Township.
4. At the hearing, the Form 131 petition was made a part of the record and labeled as Board’s Exhibit A. Notice of Hearing on Petition is labeled as Board’s Exhibit B. In addition, the following exhibits were submitted:

Petitioner’s Exhibit 1 – A copy of the average inventory for several locations including the subject location in Indianapolis.

Petitioner’s Exhibit 2 – A copy of the average inventory for the Indianapolis location.

Respondent’s Exhibit 1 – Copy of Tangible Personal Property Return, Forms 103 and 104.

5. The subject property is personal property located at 2485 Directors Row, Indianapolis, Wayne Township, Marion County.
6. The Hearing Officer did not view the subject property.
7. At the hearing, the parties agreed the year under appeal is 2000 and the assessed value of record is \$202,320.

Average inventory computation

8. Ms. Dillinger stated the Petitioner elected to report the inventory in question on the calendar year average. The 2000 return was the first time the election was made. The Petitioner reviewed 50 IAC 4.2-5-9, and made the election on page 1 of the Form 103. (Dillinger testimony).
9. The Petitioner began storing inventory at this location in September 1999. On Petitioner's Exhibit 1, the inventory in question is labeled as Indianapolis, Headsets 1650-0121.
10. The Petitioner computed the average inventory using six (6) months, September 1999 to February 2000. Using this method, the Petitioner computed an average inventory of \$81,033. Petitioner's Exhibit 2.
11. The Township claims that the Petitioner is a new taxpayer as defined by 50 IAC 4.2-5-9(f)(3). The taxpayer will be deemed a new taxpayer in a taxing district when they have not had inventory in the taxing district for any month during the preceding calendar year. (Acton testimony).
12. Ms. Dillinger stated that there is a difference of opinion on the interpretation of 50 IAC 4.2-5-9. The Petitioner was in business at this location for twelve months. The Petitioner has filed this way and it was accepted in other townships. (Dillinger testimony).

Conclusions of Law

1. The Petitioner is limited to the issues raised on the Form 130 petition filed with the Property Tax Assessment Board of Appeals (PTABOA) or issues that are raised as a result of the PTABOA's action on the Form 130 petition. 50 IAC 17-5-3. See also the Forms 130 and 131 petitions authorized under Ind. Code §§ 6-

1.1-15-1, -2.1, and -4. In addition, Indiana courts have long recognized the principle of exhaustion of administrative remedies and have insisted that every designated administrative step of the review process be completed. *State v. Sproles*, 672 N.E. 2d 1353 (Ind. 1996); *County Board of Review of Assessments for Lake County v. Kranz* (1964), 224 Ind. 358, 66 N.E. 2d 896. Regarding the Form 130/131 process, the levels of review are clearly outlined by statute. First, the Form 130 petition is filed with the County and acted upon by the PTABOA. Ind. Code §§ 6-1.1-15-1 and -2.1. If the taxpayer, township assessor, or certain members of the PTABOA disagree with the PTABOA's decision on the Form 130, then a Form 131 petition may be filed with the State. Ind. Code § 6-1.1-15-3. Form 131 petitioners who raise new issues at the State level of appeal circumvent review of the issues by the PTABOA and, thus, do not follow the prescribed statutory scheme required by the statutes and case law. Once an appeal is filed with the State, however, the State has the discretion to address issues not raised on the Form 131 petition. *Joyce Sportswear Co. v. State Board of Tax Commissioners*, 684 N.E. 2d 1189, 1191 (Ind. Tax 1997). In this appeal, such discretion will not be exercised and the Petitioner is limited to the issues raised on the Form 131 petition filed with the State.

2. The State is the proper body to hear an appeal of the action of the County pursuant to Ind. Code § 6-1.1-15-3.

A. Burden

3. In reviewing the actions of the County, the State is entitled to presume that its actions are correct. "Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies." *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.

4. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr., *Administrative Law and Practice*, § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128.
5. Taxpayers are expected to make factual presentations to the State regarding alleged errors in assessment. *Whitley*, 704 N.E. 2d at 1119. These presentations should both outline the alleged errors and support the allegations with evidence. "Allegations, unsupported by factual evidence, remain mere allegations." *Id* (citing *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d. 890, 893 (Ind. Tax 1995)). The State is not required to give weight to evidence that is not probative of the errors the taxpayer alleges. *Whitley*, 704 N.E. 2d at 1119 (citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).
6. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State in the untenable position of making the taxpayer's case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.
7. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence "sufficient to establish a given fact and which if not contradicted will remain sufficient." *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).
8. In the event a taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer's evidence and justify its decision with substantial evidence. 2 Charles H. Koch, Jr. at §5.1; 73 C.J.S. at § 128. See *Whitley*, 704 N.E. 2d at 1119 (The substantial evidence requirement for a taxpayer challenging a State Board determination at the Tax Court level is not

“triggered” if the taxpayer does not present any probative evidence concerning the error raised. Accordingly, the Tax Court will not reverse the State’s final determination merely because the taxpayer demonstrates flaws in it).

B. Average inventory computation

9. Pursuant to 50 IAC 4.2-5-9(a), a taxpayer may elect to value inventory on the prior calendar year average.
10. Electing the calendar year average method is made by notifying the assessor at the time of filing the tax return and indicating on the tax return being filed. 50 IAC 4.2-5-9(b).
11. Once the election is made, it is binding on future years and for all locations in the state. 50 IAC 4.2-5-9(c) & (d).
12. The average inventory shall be determined by computing the cost of the inventory on hand at the end of each uniform accounting period in the prior calendar year which shall not be less than twelve (12) periods. 50 IAC 4.2-5-9(e).
13. The Township claims that the Petitioner is a new taxpayer for the purpose of using the calendar year average method.
14. 50 IAC 4.2-5-9(f)(3) states that a taxpayer will be deemed a new taxpayer when they have not had inventory in the given taxing district for any month during the preceding calendar year. The Petitioner was engaged in business at this location for the full calendar year in 1999. The Petitioner had inventory in the taxing district during four (4) months in the preceding calendar year. Therefore, the Petitioner does not fit the definition of a new taxpayer.
15. 50 IAC 4.2-5-9(e)(2) states that if a taxpayer was engaged in business for only a portion of the year of the preceding calendar year, the average method shall be

based on the average of the full calendar months during which the taxpayer was engaged in business. The Petitioner was engaged in business for the full calendar year, therefore this section does not apply.

16. The Petitioner was engaged in business for the full calendar year of 1999. The Petitioner properly notified the assessor of the election to use the average method by indicating on the Form 103.

17. The Petitioner's inventory using the average inventory method should be computed as follows:

January 1999	0
February 1999	0
March 1999	0
April 1999	0
May 1999	0
June 1999	0
July 1999	0
August 1999	0
September 1999	138,990
October 1999	152,889
November 1999	211,727
December 1999	<u>156,264</u>
Total	659,870
Divide by	<u>12</u>
Average Inventory	<u>54,989</u>

18. The average inventory adjustment is computed as follows:

Inventory as reported	156,264
Average Inventory	<u>54,989</u>
Adjustment to get to average	101,275

19. The true tax value of inventory is computed as follows (corresponding Form 103, Schedule B lines numbers are also shown):

Line No.		
10	Total inventory as reported	156,264
11	Average Inventory Adjustment	<u>(101,275)</u>
24	Total inventory before special adjustments	54,989
25	Valuation adjustment @ 35% of line 24	<u>19,246</u>
28	Total true tax value of inventory	<u>35,743</u>

20. The Petitioner computed the true tax value of depreciable assets on Schedule A of the Form 103 to be \$505,373. The Township made no change to the depreciable asset computation.

21. The Petitioner's total assessed value is computed as follows:

Schedule A – Personal Property other than inventory	505,373
Schedule B – Inventory	<u>35,743</u>
Total True Tax Value	541,116
Assessed value @ 1/3 of True Tax Value	<u>180,370</u>

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this ____ day of _____, 2002.

Chairman, Indiana Board of Tax Review