

**STATE OF INDIANA  
Board of Tax Review**

ATHLETES IN MOTION, INC.	)	On Appeal from the Marion County
	)	Property Tax Assessment Board
Petitioner,	)	Of Appeals
	)	
	)	Petition for Correction of an Error, Form 133
v.	)	
	)	Petition No.: 49-800-94-3-7-00007
MARION COUNTY PROPERTY TAX	)	
ASSESSMENT BOARD OF APPEALS	)	Parcel No.: Personal Property
And WASHINGTON 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 personal property assessment is correct.

## **Findings of Fact**

1. This administrative appeal comes before the State on the Petition for Correction of an Error, Form 133, filed by Athletes in Motion, Inc. (Petitioner). The Marion County Board of Review's Final Assessment Determination is dated April 20, 1998.
2. Pursuant to Ind. Code § 6-1.1-15-4, an administrative hearing was scheduled for October 30, 2001. The Notice of Hearing was mailed on September 25, 2001.
3. On October 30, 2001, Hearing Officer Paul Stultz conducted the administrative hearing on the Form 133 petition. Neither the Petitioner nor its representative appeared at the hearing. Mr. Barry Wood, Township Assessor, and Ms. Mary Benell represented Washington Township.
4. The Hearing Officer verified that the Notices of Hearing were mailed, with proof of mailing. Notice of said hearing was mailed to the Petitioner at the address listed on the petition. The Petitioner's notice was returned to the State stamped "Forwarding Time Expired".
5. The State has not received any notification from the Petitioner regarding a change in address.
6. At the hearing, the Form 133 petition was made a part of the record and labeled as Board Ex. A. The Notice of Hearing on Petition is labeled as Board Ex. B. The proof of mailing for the Notice of Hearing is labeled as Board Ex. C. In addition, the following exhibits were submitted:  
Respondent's Ex. 1 – Copy of Form 113 dated September 15, 1994.  
Respondent's Ex. 2 – Copy of Form 113 dated December 30, 1994.

7. The subject property is business personal property located at 8701 Keystone, Indianapolis, Washington Township, Marion County.
8. At the hearing, Mr. Wood stated that the year under appeal is March 1, 1994, and the assessed value of record is \$0.
9. Mr. Wood stated that a Form 113 dated September 15, 1994 was sent to the Petitioner in error. Mr. Wood claimed that a corrected Form 113 was sent to Freeport on December 30, 1994. Mr. Wood claimed that the Township records were corrected to reflect the fact that the Petitioner had no personal property assessment in Washington Township.
10. Mr. Wood stated that the Petitioner has no personal property assessment as of March 1, 1994. Mr. Wood stated that the Form 133 petition was denied because the local officials determined that a petitioner could not petition an assessment that the petitioner does not have.

### **Conclusions of Law**

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. In addition, if appropriate, any conclusion of law made herein shall also be considered a finding of fact.
2. Ind. Code § 6-1.1-15-3 requires the State to review the actions of the County Board (or PTABOA), but does not require the State to review the initial assessment or undertake reassessment of the property.
3. In reviewing the actions of the County Board (or PTABOA), 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. Taxpayers are expected to make factual presentations to the State regarding alleged errors in assessment. *Id.* These presentations should both outline the alleged errors and support 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 taxpayers 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)).
5. 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.
6. To meet his burden, the taxpayer must present probative evidence in order to make a prima facia case. In order to establish a prima facia 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).
7. The Form 133 petition is denied for the failure of the Petitioner to appear at the administrative hearing and present evidence in support of the alleged errors of assessment.
8. The Township stated that the Petitioner does not have an assessment as of the March 1, 1994 assessment date. Therefore, the assessment will remain at \$0.

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.

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Chairman, Indiana Board of Tax Review