
**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Bridgeport Brass Corp.,)	Petition No.: 49-970-02-1-7-00007*
)	
Petitioner,)	Parcel No.: I500325 - Personal Property
)	
v.)	County: Marion
)	
Wayne Township Assessor,)	Township: Wayne
)	
Respondent.)	Assessment Year: 2002

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

January 11, 2005

FINAL DETERMINATION

The Indiana Board of Tax Review (the “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

Issue

1. The issue presented for consideration by the Board was:
Whether the subject property qualifies for abnormal obsolescence.

Procedural History

2. Bridgeport Brass Corporation DBA Olin Brass (the “Petitioner”) filed a Form 103, Business Tangible Personal Property Assessment Return (“Form 103”) for the March 1,

* The Petition number has been changed to reflect the correct property class (personal property). The original petition number was 49-970-02-1-4-00007.

2002 assessment date. On the Form 103, the Petitioner took an adjustment for abnormal obsolescence in the amount of \$7,938,627.

3. The Wayne Township Assessor (the “Respondent”) denied the Petitioner’s adjustment for abnormal obsolescence. The Respondent notified the Petitioner of the denial with a Form 113, Notice of Assessment or Change in Assessment. The Form 113 was dated September 19, 2002.
4. On November 4, 2002, the Petitioner filed a Form 130, Petition to the Property Tax Assessment Board of Appeals for Review of Assessment, to appeal the change by the Respondent.
5. On September 26, 2003, the Marion County Property Tax Assessment Board of Appeals (the “PTABOA”) issued its Final Assessment Determination.
6. Pursuant to Ind. Code § 6-1.1-15-3, Mr. Darren Bailey filed a Form 131 petition, on behalf of the Petitioner, petitioning the Board to conduct an administrative review of the above petition. The Form 131 petition was filed on October 24, 2003 with the Marion County Assessor.

Hearing Facts and Other Matters of Record

7. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on July 27, 2004, in Indianapolis, Indiana before Paul Stultz, the duly designated Administrative Law Judge (“ALJ”) authorized by the Board under Ind. Code § 6-1.5-3-3.
8. The following persons were present and sworn in as witnesses at the hearing:

For the Petitioner:

Darren Bailey, CPA, Baden Tax Management
Stanley Kramkowski, CPA, Manager, Government Accounting and Taxes,
Olin Corporation
John Connolly III, ASA, CMI, Nationwide Consulting Company, Inc.
Kerry Wade, CPA, Baden Tax Management

For the Respondent:

Tara Acton, Wayne Township Deputy Assessor
Victoria Voris, Wayne Township Deputy Assessor
Michael Thompson, Wayne Township Assistant Chief Deputy

9. The following exhibits were presented at the hearing for the Petitioner:

Exhibit A - Copy of Appraisal of Specified Items for Olin Brass as of March 1, 2002.

Exhibit B - Copy of worksheets and two page narrative prepared and presented by Mr. Kramkowski detailing production and consumption of copper and copper alloy products made by Petitioner.

Exhibit C - Copy of letter from Mr. Bailey to Marion County PTABOA dated September 10, 2003 with a three page memorandum by Mr. Connolly to Mr. Bailey dated September 3, 2003.

Exhibit D - Copy of pages 32 through 37 of the Uniform Standards of Professional Appraisal Practice effective January 1, 2003 - December 31, 2003.

Exhibit E - Various Research Articles/Testimony: Application of the Iowa Curve (Remaining Useful Life) Analysis to the valuation of Tangible Personal Property:

1. Tangible Personal Property Remaining Useful Life Estimation Analysis, pages 68 through 79 of unidentified publication.
2. Assessors' Handbook Section 582, "The Explanation of the Derivation of Equipment Percent Good Factors", February 1981, California State Board of Equalization, pages 1 through 22.
3. Direct testimony of John J. Spanos in the Matter of Depreciation filed by Massachusetts-American Water Company before the Department of Telecommunications & Energy, pages 1 through 7.
4. Direct testimony of Earl Robinson, President, AUS Consultants - Weber Fick & Wilson Division, concerning Depreciation Service Life Study, pages 1 through 18.
5. Copy of Insights Quarterly Journal, Intangible Asset Remaining Life Analysis for Property Tax Purposes, pages 1 through 16.

Exhibit F - Copy of Property Appeals Recommended to Board, Marion County, Indiana.

Exhibit G - Copy of three e-mails received by Darren Bailey regarding the time for the PTABOA determination.

Exhibit H - Copy of information sent to Brian McHenry, Marion County PTABOA, including the following:

1. Cover letter dated March 26, 2003 to Mr. McHenry from Mr. Bailey.
2. Detailed Report of Fixed Assets, March 1, 2002.
3. Form 115 for the Petitioner's real property for the March 1, 1999 assessment date.
4. Copy of Appraisal of Specified Items for Olin Brass as of March 1, 2002.

Exhibit I - Copy of Final Assessment Determination by Marion County PTABOA and copy of evidence used at the PTABOA Hearing.

Exhibit J - Copy of letter from Erik Nordahl, Universal Valuation Consultants, Inc. to Ms. Joni Romeril, Marion County Assessor.

10. The following exhibits were presented at the hearing for the Respondent:
 - Exhibit 1 - Definitions of normal and abnormal obsolescence per 50 IAC 4.3-9-2.
 - Exhibit 2 - Definitions of assessed value and true tax value per 50 IAC 4.3-1-1.
 - Exhibit 3 - Methodology provided by the Petitioner at the County Hearing.
 - Exhibit 4 - The Petitioner's opinion of the definition of abnormal obsolescence and external obsolescence as originally submitted by the Petitioner at the County Hearing.
 - Exhibit 5 - The additional background information report originally submitted by the Petitioner at the County Hearing.

11. The following additional items are officially recognized as part of the record of proceedings and labeled as Board Exhibits:
 - Board Exhibit A - Form 131 petition and attachments.
 - Board Exhibit B - Notice of Hearing on Petition.
 - Board Exhibit C - Request for Additional Evidence.
 - Board Exhibit D - Indiana Board of Tax Review Order for Extension of Time.

12. The ALJ requested additional information from the Petitioner. The Petitioner was given ten (10) days to provide the requested information. As a result of the request for additional information, the following exhibits were received from the Petitioner:
 - Petitioner Exhibit K – Response to the request for additional evidence includes a two-page statement and chart of depreciable assets. This exhibit was faxed to the Board on 8/6/04 and a hard copy was received on 8/10/04.

 - Petitioner Exhibit L – A copy of Petitioner Exhibit 3 with revisions to a number in the last paragraph. This exhibit was faxed to the Board on 8/12/04 and a hard copy was received 8/16/04.

13. The Respondent was given the opportunity to respond to the Petitioner's additional evidence. On August 9, 2004, the Respondent submitted Respondent Exhibit 6 - A two-page response to Petitioner Exhibit K.

14. The Petitioner is a manufacturer of copper and copper alloy products. The subject business personal property consists of depreciable assets located at 1800 South Holt Road, Indianapolis.

15. The ALJ did not conduct an on-site inspection of the subject property.

16. At the hearing, the parties agreed the year under appeal is 2002 and the value of record for business personal property is: \$13,918,760.

Jurisdictional Framework

17. The Board is charged with conducting an impartial review of all appeals from determinations made by assessing officials concerning the assessed valuation of tangible property. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

Indiana's Personal Property Tax System

18. Personal property includes all tangible property (other than real property) which is being:
- (a) held in the ordinary course of a trade or business;
 - (b) held, used, or consumed in connection with the production of income; or
 - (c) held as an investment.

See Ind. Code § 6-1.1-1-11.

19. Indiana's personal property tax system is a self-assessment system. Every firm, company, partnership, association, corporation, fiduciary, or individual owning, possessing, or controlling personal property with a tax situs within Indiana must file the appropriate return reporting such property in each taxing district where property is located or held on the assessment date. *See*, Ind. Code § 6-1.1-1-10.

Administrative Review and the Petitioner's Burden

20. A Petitioner seeking review of a determination of an assessing official generally 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).
21. 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”).

22. 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.

Analysis

Petitioner’s Contentions and Evidence

23. The Petitioner contends that the subject property suffers from external and economic obsolescence. According to the Petitioner, there was a significant decline in the global market for copper and copper alloy in 2001, and U.S. producers lost a portion of their share of the reduced global market relative to producers from other countries. The Petitioner contends that these circumstances were unanticipated, unexpected, and out of the Petitioner’s control.
24. The Petitioner presented the following evidence and testimony in support of its position:
- a. The Petitioner produces copper and copper alloy. The Petitioner referred to its product as “vanilla,” meaning that it was generic, easy to make, and made by a lot of producers. *Kramkowsi testimony*.
 - b. Between 2000 and 2001, the global market for copper and copper alloy dropped by 10% in both production and consumption. The 10% reduction, which was unanticipated and very sudden, has remained. *Kramkowski testimony & Petitioner Exhibit B, page 1*.
 - c. United States (“U.S.”) producers were the hardest hit, losing over 30% of their 2000 business volume. The lost volume did not rebound in 2002 or 2003. *Kramkowski testimony & Petitioner Exhibit B, page 3*.
 - d. Not only did the global market decline in 2001, but the market share of U.S. producers continues to decline. In 2000, U.S. producers had 20% of the market. By 2003, the U.S. producers had 15% of the market. *Kramkowski testimony & Petitioner Exhibit B, page 3*.

- e. The market share of Asian producers went from 40% to 50% between 2000 and 2003. Western Europe's market share dropped slightly. *Kramkowski testimony & Petitioner Exhibit B, page 3.*
- f. Asian producers are able to produce at a lower cost, have excellent quality, and are able to provide their product to U.S. customers. *Kramkowski testimony.*
- g. The subject plant was idle from November 2001 to May 2002. The subject plant permanently closed in February 2003. *Bailey testimony.*
- h. The Petitioner also presented evidence showing that the number of people it employed in each year from 1989 to February 28, 2002. *Kramkowski testimony & Petitioner Exhibit B, page 6.* The number of employees dropped from 443 in 2000 to 275 in 2001 down to 33 on February 28, 2002. *Id.*
- i. Since 1997, the Petitioner spent roughly \$12,000,000, or 30% of the total cost of the subject property, on betterments and rebuilds to maintain and upgrade the subject property. *Bailey testimony; Kramkowski testimony.* Of that amount, the Petitioner spent roughly \$6,000,000 in the three years leading up to March 1, 2002, with the last \$2,000,000 being spent in 2002. *Id.*
- j. The Petitioner has a related facility in East Alton, IL. *Kramkowski testimony.* When the subject plant closed, operations were moved to the East Alton facility. *Id.* The customer base eroded and the overall market went away. It was not just a shift from the subject plant to the East Alton facility. *Id.* East Alton is a better facility with better capabilities and capacity. East Alton produces both "vanilla" and exotic alloys. *Id.*
- k. The Petitioner presented an appraisal of the subject property performed by John Connolly, ASA, CMI. Mr. Connolly testified that he performed the appraisal according to the Uniform Standards of Professional Appraisal Practice (USPAP) using the cost approach. *Connolly testimony.* Mr. Connolly testified that he could not use the income approach because there was no income. *Id.* Mr. Connolly determined that the decrease in value was due to functional and economic obsolescence, and that the market value of the subject property was \$3,100,000 as of March 1, 2002. *Id.*
- l. Mr. Connolly testified that the Petitioner eventually sold some of the subject property at auction for \$1,900,000 and that many of the remaining assets were to

be scrapped or abandoned. *Id.* Mr. Connolly testified that the Petitioner transferred a portion of the subject property to the East Alton facility at a net book value of \$500,000, for a total of \$2,400,000. *Id.* Based on this information regarding the disposal of the subject property, Mr. Connolly contends the \$3,100,000 value set forth in his appraisal was “right on.” *Connolly testimony & Petitioner Exhibit A.*

- m. The Petitioner submitted additional evidence regarding the disposal of the subject property following the closure of its Indianapolis plant. *Petitioner Exhibit K.* According to the Petitioner, of the \$41,662,211 in depreciable assets appraised by Connolly, the Petitioner transferred \$12,875,375 to the East Alton facility. *Id.* The net book value of those transferred assets was approximately \$1,100,000. Of the remaining \$28,786,836 in appraised assets, only \$10,586,020 could be sold to outside parties through auction or by equipment brokers. *Id.* The net proceeds from such sales were \$1,436,000. *Id.*
- n. The Petitioner contends the true tax value (TTV) as computed on the Form 103 does not properly reflect the value of the subject property. *Bailey testimony.* The impact on the value of the subject property was not anticipated, expected, or recurring. *Id.* The basis for the claim is external obsolescence. *Id.* The Petitioner is not claiming exceptional or technological obsolescence. *Id.*

Respondent’s Contentions and Evidence

- 25. The Respondent contends that the circumstances described by the Petitioner do not meet the definition of abnormal obsolescence.
- 26. The Respondent presented the following evidence and testimony in support of its position:
 - a. The Respondent claimed the Petitioner’s circumstances do not qualify for abnormal obsolescence. The Respondent cited 50 IAC 4.3-9-2 and 9-3 which defines normal and abnormal obsolescence. *Voris testimony & Respondent Exhibit 1.*
 - b. The Respondent noted the Petitioner shifted production to the East Alton plant, which has newer equipment and technology. The Respondent contended that the

fact the Petitioner has a more efficient and technologically advanced plant shows changes were anticipated and foreseen. *Voris testimony & Respondent Exhibit 5, page 1.*

- c. The Respondent noted the Petitioner's equipment is 60 years old and only had a planned life of 5 years. The Respondent inquired what would be abnormal about the obsolescence that 60-year-old equipment has experienced. *Acton testimony; Respondent Exhibit 5, page 1.*
- d. The Respondent contended that it was not unforeseeable for jobs to go to Asia. *Thompson testimony.* The Respondent contended that the same thing has happened in other industries. *Id.*
- e. The Respondent contended that the Petitioner chose not to update the equipment and keep up with technology. *Acton testimony.* The Petitioner chose to close the subject plant and transfer operations to the East Alton facility. *Id.* The equipment may have lost value, but it is 60 years old. The situation does not fit the definition of abnormal obsolescence. *Id.*
- f. The Respondent also questioned whether the money spent by the Petitioner in betterments and rebuilds to improve a facility that may not have any more useful life was a good business decision. *Acton testimony.*

Rules Governing Abnormal Obsolescence

27. Under Indiana's system of personal property tax assessment, the adjusted cost of depreciable personal property is required to be segregated into pools based upon the depreciable life such property. 50 IAC 4.3-4-6.¹ The true tax value of such property is computed by multiplying the adjusted cost of each year's acquisition in each respective pool by a "percentage good" factor set forth in the administrative rules adopted by the Department of Local Government Finance. 50 IAC 4.3-4-8.

¹ 50 IAC 4.3 was the administrative rule governing the assessment of tangible personal property that was in effect at the time of the assessment in this case. Rule 4.3 had been adopted by the Department of Local Government Finance to replace former Rule 4.2. In 2003, the Indiana General Assembly enacted I.C. § 6-1.1-3-22, which reinstated 50 IAC 4.2. The provisions of Rule 4.3 have been voided to the extent that they conflict with reinstated Rule 4.2. Ind. Code § 6-1.1-3-22(d). However, for purposes of this decision, the Board will refer to the requirements of Rule 4.3 in the present tense.

28. The percentage good factors automatically reflect all forms of depreciation for Indiana property tax purposes, except abnormal obsolescence, as defined in 50 IAC 4.3-9-3. *Id.* Thus, the percentage good factors were designed to account for “normal obsolescence” through the use of historical cost and short useful lives for assets. 50 IAC 4.3-9-3. The rules define “normal obsolescence” as:

[T]he anticipated or expected reduction in the value of business personal property that can be foreseen by a reasonable, prudent businessperson when property is acquired and placed into service. In general, it includes the expected gradual decline in value because of expected technological innovations and the general assumption that such property will have a minimum value at the end of its useful life.

50 IAC 4.3-9-2

29. By contrast, the percentage good factors were not designed to account for “abnormal obsolescence.” The rules define “abnormal obsolescence” as:

[O]bsolescence that occurs as a result of factors over which the taxpayer has no control and is unanticipated, unexpected, and cannot reasonably be foreseen by a prudent businessperson before the occurrence. It is of a nonrecurring nature and includes unforeseen changes in market values and exceptional technological innovations that have a direct effect upon the value of the personal property. . . . The invention of newer, more productive personal property that produces a better quality item, utilizes state of the art technology, or produces more efficiently at a lower cost of production, does not cause an older, currently used asset to be abnormally obsolete unless the change was unanticipated, unexpected, or could not have reasonably been foreseen by a prudent business person.

50 IAC 4.3-9-3.

30. The rules provide the following specific examples of abnormal obsolescence:

An example of unforeseen change in market value (external obsolescence) is a government ban on the sale of a drug or chemical that may cause that item or the production equipment used to produce it to be abnormally obsolete. In this case, the equipment used to produce it may be eligible for abnormal obsolescence, while the inventory should be valued at lower of cost or market as provided in this article and will not be entitled to abnormal obsolescence. 50 IAC 4.3-9-3(b); and

[A]n example of exceptional technological innovation (functional obsolescence) would be compact disc (CD) technology. In this case, the equipment used to produce and play long play (LP) records may be eligible for abnormal obsolescence, while the inventory (LPs) should be valued at the lower of cost or market as provided in this article and will not be entitled to abnormal obsolescence. Abnormal

obsolescence due to exceptional technological innovation should be recognized to the extent that it causes the subject property to be incapable of use for current production or adaptation to a different use. 50 IAC 4.3-9-3(c).

31. Abnormal obsolescence must be considered separately, because it has not been accounted for in normal obsolescence or physical depreciation. 50 IAC 4.3-9-3. Where property suffers from abnormal obsolescence as defined in the relevant administrative rules, the taxpayer may claim an adjustment based upon the decrease in value attributable to such obsolescence. 50 IAC 4.3-4-9. Abnormal obsolescence may be calculated using different methodologies depending upon the type of inutility represented by such obsolescence. However, as a general rule, common appraisal concepts and methods may be used. 50 IAC 4.3-9-3.
32. Thus, a petitioner claiming abnormal obsolescence has a two-fold burden of proof. First, the petitioner must show that abnormal obsolescence exists based on the set of circumstances presented. Second, the Petitioner must quantify a loss in value based directly upon those circumstances. 50 IAC 4.3-9-4; *See also Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230, 1241 (addressing obsolescence with regard to improvements to commercial real estate).

*The Petitioner has not Demonstrated that the Subject Property Qualifies for Abnormal
Obsolescence*

33. The Petitioner has attempted to establish abnormal obsolescence based essentially on two circumstances – a decline in the global market for its product and a loss of market share for U.S. producers.
34. With regard to its first contention, the Petitioner presented evidence to show that global consumption of copper and copper alloy dropped 10% between 2000 and 2001, with a corresponding drop in production during that same period. *Kramkowski testimony & Petitioner Exhibit B, page 1*. However, the same evidence shows that global production increased 1.65% in 2002 and 2.08% in 2003 and that global consumption increased 1.71% in 2002 and 1.65% in 2003. *Id.* Thus, while the global market for copper and

copper alloy decreased by 10% between 2000 and 2001, it increased by a total of more than 3% over the next two years. *Petitioner Exhibit B, page 1*

35. More importantly, the Petitioner did not explain how a 10% decrease in the global market fits the definition of abnormal obsolescence. The Petitioner asserted that the drop was unanticipated and sudden. *Kramkowski testimony*. However, the Petitioner presented virtually no evidence regarding the cause(s) of that decrease. The Petitioner also failed to present any evidence concerning global market levels prior to 2000. Without at least some explanation regarding the cause of the decrease or information concerning historical fluctuations in the market, it is impossible to tell whether or not a prudent businessman reasonably could have foreseen such decrease. On its face, a 10% decrease does not appear to be so far out of the ordinary as to be reasonably unforeseeable to a prudent businessperson.
36. In fact, a 10% decrease in the market is significantly less drastic than the relevant example of external abnormal obsolescence set forth in 50 IAC 4.3-9-3(b). That example presupposes what appears to be the complete elimination of a market through a governmental ban on the sale of a drug.
37. However, the Petitioner does not rely solely on the drop in global market demand for copper alloy in 2001. The Petitioner also presented evidence that U.S. producers were hit hardest by the global market decline. U.S. producers that year saw a decline of between 210,000,000 and 215,000,000 tons, an amount equal to over 30% of their year 2000 business volume. *Kramkowski testimony & Petitioner Exhibit B, pages 1 & 3*. The global market share of U.S. producers also declined from 20% in 2000 to 15% in 2003. *Kramkowski testimony & Petitioner Exhibit B, p. 3*.
38. The Petitioner went on to explain there has been a growth of foreign competition. The market share of Asian producers went from 40% in 2000 to 50% in 2003. *Kramkowski testimony & Petitioner Exhibit B, pages 1, 3*. The Petitioner attributed the growth in foreign competition, particularly from producers in China, Taiwan and South Korea, to

the ability of such competitors to produce at a lower cost while maintaining excellent quality. *Kramkowski testimony*.

39. However, the Petitioner did not explain why the increase in foreign competition was beyond its control, unanticipated, unexpected, or could not reasonably have been foreseen. Based on the Petitioner's evidence, the U.S. market share declined because foreign competitors were able to produce a high quality product at a lower cost. *Kramkowski testimony*. The Petitioner did not elaborate on the reasons for this increased efficiency. For example, the increased efficiency of Asian producers could have been due to a competitive advantage as the result of comparatively low labor costs, governmental subsidization, or a myriad of other factors. Some of those factors may have been reasonably foreseeable and within the Petitioner's control, and others may not have been. Absent evidence as to the causes behind the loss in market share to foreign competitors, the Board cannot find that such a reduction in market share was necessarily outside of the Petitioner's control or not reasonably foreseeable by a prudent businessperson.
40. Instead, the Petitioner's contentions seem to fall more readily within the definition of normal obsolescence, which is a gradual decline in value due to expected technological innovations and the general assumption that the property will have a minimum value at the end of its useful life. *50 IAC 4.3-4-8*.
41. Much of the subject property is almost 60 years old. *Board Exhibit A² & Respondent Exhibit 5*. The facility in which it was housed was designed to have an economic life of 5 years. *Id.* The facility's infrastructure has not been significantly improved, and the electric power equipment supplying the majority of the facility is World War II era technology. *Id.*
42. Equipment that is 60 years old in a facility designed to have an economic life of 5 years would be expected to have minimal value. One would also expect that technological

² Form 106 (Schedule of Adjustments to Business Tangible Personal Property Return) attached to the Petitioner's Form 131 petition for review.

innovations would allow for more efficient production at a lower cost, whether by foreign or domestic competitors. In fact, the Petitioner's parent company operated a "better" and more "technologically advanced" plant in Alton Illinois where it manufactured both the "vanilla" alloy made by the Petitioner in the subject facility and other more exotic alloys. *Id.*; *Kramkowski testimony*.

43. The Petitioner did present testimony that 30% of the total cost of the subject property represented betterments and rebuilds to maintain the subject property and keep it operating from 1997 onward. *Bailey testimony*; *Connolly testimony*. Approximately \$6,000,000 of those betterments and rebuilds occurred between 2000 and 2002. *Id.* However, the Petitioner did not explain to which equipment the betterments and rebuilds were applied. For example it is unclear whether those modifications were made to the equipment that was sold, scrapped or transferred to East Alton. To the extent that the equipment containing betterments falls within the last category, those betterments presumably continue to contribute to the production of copper alloy. Similarly, the Petitioner did not explain the extent to which it could have reasonably anticipated that the betterments or rebuilds would extend the useful life of the subject property.
44. In actuality, the Petitioner indicated that it was able to continue to use its outdated plant and equipment because the U.S. brass industry shifted to advanced production capabilities, allowing the Petitioner to maintain a market in lower grades of brass while still utilizing its "inferior production capabilities." *Respondent Exhibit 5*. The fact that the Petitioner could not continue to do so indefinitely is hardly unforeseeable.
45. As explained above, the true tax value of business personal property is computed by multiplying the adjusted cost by a percentage good factor. The true tax value for the majority of the Petitioner's equipment is computed using a percent good factor of 15%, the minimum percent good factor in Pool 2. *Board Exhibit A, Form 103 attached to Form 131 petition*. This percent good factor reflects all forms of depreciation except abnormal obsolescence. *50 IAC 4.3-9-2*. Therefore, the Petitioner took into consideration all depreciation and normal obsolescence in computing the true tax value of the business personal property on the Form 103.

46. Based on the foregoing, the Petitioner has failed to meet its burden of demonstrating the existence of abnormal obsolescence.
47. Because the Petitioner has not shown that abnormal obsolescence exists, the Board will not address the evidence presented by the Petitioner attempting to quantify the abnormal obsolescence.

Summary of Final Determination

Whether the subject property qualifies for abnormal obsolescence.

48. The Petitioner did not by the preponderance of the evidence prove the subject property was entitled to an adjustment for abnormal obsolescence. There is no change in the assessment as a result of this issue.

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 _____ 2005.

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.