

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition:** 84-002-06-1-5-00714<sup>1</sup>  
**Petitioners:** Wayne and Suzanne Closson  
**Respondent:** Vigo County Assessor  
**Parcel:** 84-00-00-052-068.000-002 (Personal Property)  
**Assessment Year:** 2006

The Indiana Board of Tax Review (Board) issues this determination in the above matter, finding and concluding as follows:

**Procedural History**

1. The Petitioners initiated an appeal with the County Property Tax Assessment Board of Appeals (PTABOA) by filing a Form 130 on May 3, 2010.
2. The PTABOA mailed notice of its decision, Form 115, on September 26, 2011.
3. The Petitioners appealed to the Board by filing a Petition for Review of Assessment, Form 131, on November 2, 2011. The Petitioners elected to have this case heard according to small claims procedures.
4. The Board issued a notice of hearing on March 23, 2012.
5. Administrative Law Judge Paul Stultz held the Board's administrative hearing on May 22, 2012. He did not inspect the property.
6. Wayne and Suzanne Closson appeared *pro se* and were sworn. County Assessor Deborah Lewis and Susan McCarty, the Chief Deputy Assessor, were sworn as witnesses for the Respondent, but Ms. McCarty did not testify.

**Facts**

7. The personal property under appeal is a recreational vehicle (RV) that was reported on the Petitioners' Personal Property Return for assessment date March 1, 2006.
8. The PTABOA made no change to the originally reported \$38,000 value of the RV because there was no timely amendment to the original return.

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<sup>1</sup> The appeal was originally assigned petition number of 84-002-09-1-5-00714. Based on undisputed testimony, the petition number has been changed to reflect that the appeal concerns a 2006 assessment.

9. The Petitioners claim the assessed value should be \$0.

### **Record**

10. The official record for this matter contains the following:
- a. The Form 131 Petition,
  - b. A digital recording of the hearing,
  - c. Petitioners Exhibit 1 – Letter revoking acceptance dated April 14, 2006,  
Petitioners Exhibit 2 – Letter dated December 13, 2010, from the PTABOA,  
Petitioners Exhibit 2A – Handwritten notes describing problems with the RV,  
Petitioners Exhibit 2B – Handwritten chronology of RV-related events,  
Petitioners Exhibit 3 – Draft of letter from attorney dated October 2006,  
Petitioners Exhibit 4 – Settlement Agreement of pending lawsuit,  
Respondent Exhibit 1 – 2006 Individual’s Tangible Personal Property Assessment  
Return, Form 101, (front page),  
Respondent Exhibit 2 – 2009 pay 2010 tax bill,  
Respondent Exhibit 3 – Joint Report by Taxpayer/Assessor to the County Board  
of Appeals of a Preliminary Informal Meeting, Form 134,  
Respondent Exhibit 4 – Ind. Code § 6-1.1-3-7.5, Amended returns; tax  
adjustments; credits,  
Respondent Exhibit 5 – 50 IAC 4.2-2-5.1, Amended returns,  
Board Exhibit A – Form 131 Petition,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Hearing Sign In Sheet,
  - d. These Findings and Conclusions.

### **Contentions**

11. Summary of the Petitioners’ case:
- a. The RV was purchased on July 28, 2005. Due to many mechanical problems with it and the inability of the manufacturer and dealership to correct these problems, the Petitioners returned the RV to the dealership and revoked their acceptance of the vehicle on April 14, 2006. *W. Closson testimony; Pet’r Exs. 1, 2A, 2B, 3, 4.*
  - b. The Petitioners purchased an Indiana license plate for the RV in March 2006. The Petitioners, however, do not believe the RV had a tax situs in Vigo County on March 1, 2006. The RV was in Canada for repairs on March 1, 2006, and was not returned to the Petitioners until April 2006. *W. Closson testimony; Pet’r Exs. 2A, 2B.*

- c. The Harrison Township Assessor instructed the Petitioners to file the Form 101, which they did stating the true tax value of the RV was the purchase price of \$38,000. *W. Closson testimony; S. Closson testimony*. The advice provided by the local assessor was insufficient regarding the filing requirements and appeal procedures. *W. Closson testimony*.
  - d. The Petitioners understand they owe taxes on the RV, but believe the current tax bill is excessive. *W. Closson testimony*.
12. Summary of the Respondent's case:
- a. The Petitioners are appealing a bill for delinquent taxes they received in 2009 for a 2006 assessment. *D. Lewis testimony; Resp't Ex. 2*.
  - b. The Petitioners filed a Form 101 for the RV on April 21, 2006. The true tax value reported on the Form 101 is \$38,000. That figure is an amount determined by the Petitioners. There was no change made to the true tax value by any assessing officials. *D. Lewis testimony; Resp't Ex. 1*.
  - c. The Petitioners filed a Notice to Initiate an Appeal, Form 130, on May 3, 2010, identifying the year under appeal as 2009. A Joint Report by Taxpayer/Assessor to the County Board of Appeals of a Preliminary Informal Meeting, Form 134, was also forwarded to the PTABOA. *D. Lewis testimony; Resp't Ex. 3*.
  - d. Personal property assessments can be corrected by filing an amended return no later than six months after the May 15 filing deadline. There was no amended return filed in this case. After that six month period had expired, the Indiana Code and the Indiana Administrative Code state the assessment could not be changed. *D. Lewis testimony; Resp't Exs. 4, 5*.
  - e. The township assessor accepted an appeal in 2009 for a 2006 assessment. This is in error and explains why the Form 115 incorrectly states the year under appeal is 2009. *D. Lewis testimony*.

### **Analysis**

13. 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 4.2-2-2.
14. The parties agree the initial assessment of the RV occurred in 2006 and that the Petitioners bear the burden of proof in this appeal.

15. The Petitioners did not make a case that requires a change regarding their 2006 tangible personal property.
- a. While acknowledging they owe taxes on the RV, the Petitioners contended their current tax liability is too high. To the extent that the Petitioners propose to contest their taxes, as opposed to the property's assessment, the Board lacks jurisdiction to hear their claim. The Board is a creation of the legislature and has only the powers conferred by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 904, 908 (Ind. Tax Ct. 2001) (citing *Matonovich v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1093, 1096 (Ind. Tax Ct.1999)). The Board therefore must address appeals from determinations made by local assessing officials or county PTABOAs that concern property valuations, property tax deductions, property tax exemptions, or property tax credits. Ind. Code § 6-1.5-4-1(a). By contrast, no statute authorizes the Board to review the propriety of local tax rates.
  - b. The most applicable statute in this appeal, Ind. Code § 6-1.1-3-7.5, provides:
    - (a) A taxpayer may file an amended personal property 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) \*\*\*\*
    - (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.
  - c. The Petitioners timely filed their Form 101 and did not attempt to amend that original return within six months as allowed by Ind. Code § 6-1.1-3-7.5. The mandatory language of subsection (c) is clear and unambiguous. A clear and unambiguous statute must be read to 'mean what it plainly expresses, and its plain and obvious meaning may not be enlarged or restricted.'" *Indianapolis Historic*

*Partners v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1224, 1227 (Ind. Tax Ct. 1998) (quoting *Department of State Rev. v. Horizon Bancorp*, 644 N.E.2d 870, 872 (Ind. 1994)). The Petitioners missed the opportunity to amend their return.

- d. The Petitioners brought this matter to the Board as a Form 131 appeal. That process is governed by Ind. Code § 6-1.1-15 and is for taxpayers who appeal an action of a local assessing official. Such actions include a local assessing official placing an assessment on personal property when a taxpayer failed to file a property tax return, or a local assessing official making a change to a return filed by a taxpayer. In this appeal, however, no local assessing official took action to change anything about the original return. Accordingly, the appeal process described in Ind. Code § 6-1.1-15 does not provide an avenue to the remedy the Petitioners seek.

### **Conclusion**

- 16. The Petitioners failed to file a timely amended personal property tax return under Ind. Code § 6-1.1-3-7.5. It might have been the appropriate way to obtain relief. This error precludes the Board's determination about whether the RV was correctly reported on the Form 101.
- 17. The Board finds for the Respondent. There will be no change in the assessment as a result of this appeal.

ISSUED: August 22, 2012

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

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>