
**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

IBM CREDIT CORP.,)	Petition No.: 82-029-02-1-7-04079
)	
Petitioner,)	
)	
v.)	County: Vanderburgh
)	
VANDERBURGH COUNTY)	Township: Pigeon
PROPERTY TAX ASSESSMENT)	
BOARD OF APPEALS,)	Parcel No.: 11-07-19148
)	
Respondent.)	Assessment Year: 2002
)	

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

ORDER OF DISMISSAL

IBM Credit Corp. (the "Petitioner") filed a Form 131, Petition to the Indiana Board of Tax Review for Review of Assessment, on November 29, 2004.

The Petitioner filed a Form 103, Business Tangible Personal Property Assessment Return, for the March 1, 2002 assessment date on May 13, 2002. The Petitioner contends that due to an administrative error certain equipment was erroneously reported on the Form 103 filing for the March 1, 2002 assessment date. The Petitioner contends that the equipment should not have been reported because the equipment was moved to Southbury, Connecticut in February 2002.

The applicable rules governing appeals of personal property are:

Ind. Code § 6-1.1.15-1

Sec. 1. (a) A taxpayer may obtain a review by the county property tax assessment board of appeals of a county or township official's action with

respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer.

Ind. Code § 6-1.1-15-12

(g) A taxpayer that files a personal property tax return under IC 6-1.1-3 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's personal property tax return. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's personal property tax return, the taxpayer must instead file an amended personal property tax return under IC 6-1.1-3-7.5.

Ind. Code § 6-1.1-3-7.5

Sec. 7.5. (a) A taxpayer may file an amended personal property tax 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.

The Petitioner filed a Form 130, Petition to the Property Tax Assessment Board of Appeals for Review of Assessment. The Vanderburgh County Property Tax Assessment Board of Appeals (the "PTABOA") issued a determination denying the Petitioner's appeal. The Petitioner filed the Form 131 petition to the Indiana Board of Tax Review (the "Board").

The Form 130 appeal process governed by Ind. Code § 6-1.1-15-1 is for taxpayers who are appealing an action of a local assessing official. For example, the local assessing official places an assessment on a taxpayer who fails to file a property tax return, or the local assessing official makes a change to an assessment that was filed by a taxpayer. In the case at hand, the Petitioner wants to correct an error made by the Petitioner on the property tax return the Petitioner filed. There was no action by the local assessing official with regard to the Petitioner's assessment.

The only provision for a taxpayer to correct an error on a taxpayer's property tax return is found in Ind. Code § 6-1.1-3-7.5 which states a taxpayer may file an amended return not more than six (6) months after the filing date of the original return. The Petitioner filed the Form 103 on May 13, 2002. The Petitioner had six (6) months from that date to file an amended return. The Petitioner did not file an amended return within six (6) months of May 13, 2002. The

Petitioner first contacted the County by a letter dated January 7, 2004, well beyond the six (6) month deadline for filing amended returns.

Ind. Code § 6-1.1-15-12 provides that a taxpayer may petition for correction of errors in its assessment. However, Ind. Code § 6-1.1-15-12(g)¹ clearly states that a taxpayer who files a personal property tax return may not petition under this section to correct errors made by the taxpayer on the taxpayer's personal property tax return, instead the taxpayer must file an amended personal property tax return under Ind. Code § 6-1.1-3-7.5. As previously stated the Petitioner failed to follow the statutory procedures of Ind. Code § 6-1.1-3-7.5.

FAILURE TO FOLLOW STATUTORY PROCEDURE

In order for a taxpayer to correct an error made on a personal property return filed by that taxpayer, the taxpayer must file an amended return pursuant to Ind. Code § 6-1.1-3-7.5 which states a taxpayer may file an amended return not more than six (6) months after the filing date of the original return.

The Board cannot any grant relief on the above-referenced petition because the Petitioner has failed to follow the procedures set forth in Ind. Code § 6-1.1-3-7.5. The above referenced petition is hereby dismissed for failure to follow statutory procedure.

So ORDERED this ____ day of _____ 2005.

Commissioner
Indiana Board of Tax Review

¹ Ind. Code § 6-1.1-15-12 was amended by PUB. LAW 198-2001 § 50 to add subsection (g). PUB. LAW 198-2001 § 112 states that the amendment applies to property taxes due and payable after December 31, 2002.

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.