

**STATE OF INDIANA  
Board of Tax Review**

REA MAGNET WIRE CO., INC.	)	On Appeal from the Allen County
	)	Auditor
Petitioner,	)	
	)	
v.	)	Claim for Enterprise Zone Business
	)	Personal Property Tax Credit
ALLEN COUNTY AUDITOR	)	
	)	Petition No. 02-041-01-4-0-10000
Respondent.	)	

**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 Rea Magnet Wire Company, Inc. is entitled to an Enterprise Zone Business Personal Property Tax Credit (EZ Credit) for the 2001 assessment year.

**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 herein shall

be considered a finding of fact.

2. Rea Magnet Wire Co., Inc. (Rea) is a business located at 3600 E. Pontiac Street, Fort Wayne, Adams Township, Allen County. Rea is located in an urban enterprise zone.
3. Rea filed the application (Form EZ-1) for the EZ Credit. The Allen County Auditor received the Form EZ-1 on June 1, 2001. The Allen County Auditor issued the denial of the EZ Credit on August 10, 2001.
4. On August 30, 2001, Rea requested that the State overturn the denial and reinstate the credit. The request for review included an explanation for the late filing and letters from the Urban Enterprise Association and the Mayor of Fort Wayne supporting the reinstatement of the credit.
5. On October 24, 2001, the State sent a letter to Rea informing it of the factors in 50 IAC 10-4-2. The State will consider the facts and circumstances in determining whether or not to approve a late-filed application. The State requested that each of the factors be addressed with a written statement and supporting documentation. In addition, the State requested that a copy of the Form 103 be submitted as well as a copy of the Form EZB-R and proof that such was timely filed. The information was to be submitted by November 26, 2001.
6. On November 7, 2001, Rea submitted the requested information. Rea addressed the seven (7) factors and included a copy of the Form 103, a copy of the Form EZB-R, letters of support from the Mayor of Fort Wayne and Urban Enterprise Association, Inc., a letter from the Allen County Auditor, and a letter from Rea's financial advisor explaining the reason for the untimely filing.

## **Conclusions of Law**

1. 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 filing of a Form EZ-1, the levels of review are clearly outlined by statute. First, the Form EZ-1 is filed with the County and acted upon by the County Auditor. Ind. Code § 6-1.1-20.8. If the taxpayer disagrees with the County Auditor's action on the Form EZ-1, then a written request for review may be filed with the State. Ind. Code § 6-1.1-20.8-3(b).
  
2. The State is the proper body to hear an appeal of the action of the County Auditor pursuant to Ind. Code § 6-1.1-20.8-3(c).

### **A. Burden**

3. 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.
  
4. 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.

5. 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).

**B. Enterprise Zone Business Personal Property Tax Credit**

6. Pursuant to Ind. Code § 6-1.1-20.8-2, a person that files a timely personal property return must file the application for Enterprise Zone Business Personal Property Tax Credit (Form EZ-1) between March 1 and May 15 of that year in order to obtain the credit. A person that obtains a filing extension under Ind. Code § 6-1.1-3-7(b) for an assessment year must file the application between March 1 and June 14 of that year in order to obtain the credit.
7. The State has the legal authority to consider a late-filed application for the Enterprise Zone Business Personal Property Tax Credit. *Graybar Electric Co. v. State Board of Tax Commissioners*, 723 N.E. 2d 491 (Ind. Tax 2000). In *Graybar*, the Tax Court references *State Board of Tax Commissioners of Indiana v. New Energy Company of Indiana* (Ind. App. 1992), 585 N.E.2d 38.
8. In considering a late-filed application, the State shall consider all of the relevant facts and circumstances, and determine if it is more equitable to grant or to deny the EZ credit application.
9. The State has adopted seven (7) factors to guide the exercise of its discretion in determining whether to grant late-filed applications. 50 IAC 10-4-2(b). The Petitioner was informed of the seven (7) factors and had

the opportunity to present evidence on these factors. See Finding No. 5, above. The factors and the Petitioner's response to each factor are as follows...

1. Whether the failure to timely file the application resulted from an act of God, or from the death or serious illness of the person principally responsible for the filing of the deduction application. *(To the extent possible, the taxpayer should provide documentary evidence supporting its contention.)*

**The failure to file Form EZ-1 on time was due to confusion on the part of our outside tax preparer and some incorrect information he received from the Indiana Department of Commerce.**

2. Whether the approval of the late-filed application would result in the loss of property tax revenues to the taxing units affected by the deduction. *(The taxpayer should submit a written statement signed by the County Auditor stating whether approval would result in the loss of tax revenues.)*

**A letter from the Auditor of Allen County which states that the late filing will not result in a substantial loss of property tax revenues to the taxing units was presented.**

3. Whether a public official gave misleading information to the taxpayer that was the proximate cause of the late-filing, and whether it was reasonable for the taxpayer to rely on that misleading information. *(To the extent possible, the taxpayer should provide documentary evidence supporting its contention.)*

**The failure to file Form EZ-1 on time was due to confusion on the part of our outside tax preparer and some incorrect information he received from the Indiana Department of Commerce.**

4. Whether the lapse between the filing deadline and the date on which the application was actually filed would have prevented local officials from accurately determining the assessed value for budget, rate and levy purposes.

**A letter from the Auditor of Allen County which states that the lapse in time did not tangibly affect the certification for the affected units was presented.**

5. Whether there is substantial evidence that local officials support the approval of the late-filed application, even if such approval would result in a loss in tax revenues. *(The taxpayer should provide written documentary evidence including written statements from local officials, including the local Enterprise Zone Board, indicating support for the approval of the application, notwithstanding the fact that the application was filed late.)*

**Letters of support were presented from the Auditor of Allen County, the Urban Enterprise Association of Fort Wayne and the Mayor of the City of Fort Wayne.**

6. Whether the late-filing was not due to the taxpayer's negligence.

**The failure to file Form EZ-1 on time was due to confusion on the part of our outside tax preparer and some incorrect information he received from the Indiana Department of Commerce.**

7. Any other factor that the State Board considers relevant.

**Rea has been manufacturing wire on Pontiac Street in Fort Wayne since 1933. To our knowledge, we have never been late on any other filing of this nature, and our property tax returns have never been questioned in the history of our Company. We have recently completed an expansion of our facility in Fort Wayne, and are currently exploring ways to donate some of our**

**excess land to the City to be developed into a new park.**

10. After careful consideration of the evidence presented, and the circumstances of this situation, the State hereby approves the Petitioner's EZ credit for the 2001 assessment year.

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