

REPRESENTATIVE FOR PETITIONER:
Anthony L. Robbins, Certified Public Accountant

REPRESENTATIVE FOR RESPONDENT:
Linda Phillips, Tippecanoe County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Pattanam D. Srinivasan)	Petition No.: 79-162-10-3-7-00001
)	
Petitioner,)	Personal property: 79-131-28429-00
)	
v.)	
)	
Tippecanoe County Assessor,)	County: Tippecanoe
)	
Respondent.)	Assessment Year: 2010

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

December 17, 2012

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has 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 is whether a Form 133 Petition for Correction of Error may be used to appeal a personal property tax return.

PROCEDURAL HISTORY

2. The Petitioner, Pattanam D. Srinivasan, filed a Form 104, Business Tangible Personal Property Return for 2010 on May 10, 2010.
3. Upon receiving a bill for the 2010 tax year, the Petitioner filed a Form 133 Petition for Correction of Error on April 26, 2011, stating that he owned no tangible personal property in the county on the March 1, 2010, assessment date and that he filed the Form 104 return in error. The Petitioner requested that the Property Tax Assessment Board of Appeals (PTABOA) void the 2010 personal property assessment and remove the taxes due on the assessment.
4. The Tippecanoe County PTABOA issued its assessment determination on June 8, 2011, upholding the property's assessment on the grounds that an amended return was the only proper mechanism to correct a personal property tax return.
5. Pursuant to Indiana Code § 6-1.1-15-12, the Petitioner filed a Form 131 Petition for Review of Assessment on July 5, 2011, petitioning the Board to conduct an administrative review of the property's 2010 assessment.¹

¹ Although the Petitioner filed a Form 131 to the Board, the Board will treat the petition as a Form 133 petition as both parties agreed that a Form 130 was never filed with the county or the PTABOA.

HEARING FACTS AND OTHER MATTERS OF RECORD

5. Pursuant to Indiana Code § 6-1.1-15-4 and § 6-1.5-4-1, the duly designated Administrative Law Judge (the ALJ), Ellen Yuhan, held a hearing on October 2, 2012, in Lafayette, Indiana.
6. The following persons were sworn at the hearing:
- For the Petitioner:
- Anthony L. Robbins, Certified Public Accountant,
- For the Respondent:
- Linda Phillips, Tippecanoe County Assessor,
7. The Petitioner presented the following exhibits²:
- | | |
|------------------------|---|
| Petitioner Exhibit A – | Summary of the Petitioner’s arguments, |
| Petitioner Exhibit B – | Letter to Ms. Phillips from Dr. Srinivasan, dated July 1, 2011, |
| Petitioner Exhibit C – | Form 133, Petition for Correction of Error, |
| Petitioner Exhibit D – | Form 115, Notification of Final Determination, |
| Petitioner Exhibit E – | Form 104, Business Tangible Personal Property Return, |
| Petitioner Exhibit F – | Letter from Dr. Turner to Ms. Phillips dated April 25, 2011, |
| Petitioner Exhibit G – | 2011 tax bill, |
| Petitioner Exhibit H – | Letter from Ms. Phillips to Dr. Srinivasan, dated April 20, 2010 (hand written note indicated a 2011 date), |
| Petitioner Exhibit I – | Letter from Dr. Srinivasan to Ms. Phillips, dated April 26, 2011, |
| Petitioner Exhibit J – | Letter from Ms. Phillips to Dr. Srinivasan, dated May 2, 2011, |
| Petitioner Exhibit K – | Letter from Dr. Srinivasan to Ms. Phillips, dated May 5, 2011, |
| Petitioner Exhibit L – | DLGF Fact Sheet for Petition of Correction of an Error, |
| Petitioner Exhibit M – | Letter from Anthony L. Robbins to the Hendricks County Assessor dated May 9, 2011. |

² The Petitioner’s exhibits are attached to Board Exhibit A.

8. The Respondent presented the following exhibits:
 - Respondent Exhibit 1 – 2010 Form 104,
 - Respondent Exhibit 2 – 2010 pay 2011 tax bill (with hand written note),
 - Respondent Exhibit 3 – Form 133 dated April 26, 2011,
 - Respondent Exhibit 4 – Form 115, Notification of Final Determination,
 - Respondent Exhibit 5 – Copy of Indiana Code § 6-1.1-3-7.5,
 - Respondent Exhibit 6 – Copy of 50 IAC 4.2-2-5.1 regarding amended returns.

9. 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 with attachments,
 - Board Exhibit B – Notice of Hearing, dated August 17, 2012,
 - Board Exhibit C – Hearing sign-in sheet.

10. The subject property is business personal property located at 3554 Promenade Parkway, Suite H, Lafayette, Indiana.

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

12. For 2010, the PTABOA determined the assessed value of the property to be \$48,100.³

13. The Petitioner contends the property should be assessed for \$0 in 2010.

JURISDICTIONAL FRAMEWORK

14. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property, (2) property tax deductions, (3) property tax exemptions, and (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals

³ The Tax Bill, Respondent's Exhibit 2, indicated a value of \$51,590 for 2010. However the Petitioner's Form 104, Business Tangible Personal Property Return and the PTABOA Determination, Form 115, reported a value of \$48,100 for the 2010 assessment year.

are conducted under Indiana Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

PARTIES' CONTENTIONS

15. The Petitioner contends his property's assessment was an error and is illegal as a matter of law. In support of this contention, the Petitioner presented the following:
 - A. The Petitioner's representative, Mr. Robbins, contends that the Petitioner's Form 104 was filed in error. *Robbins testimony*. According to Mr. Robbins, when he prepared the Form 104 for the Petitioner, he was unaware that Dr. Srinivasan had closed his medical office in February of 2010. *Id.* Due to the numerous documents submitted for his signature, Dr. Srinivasan inadvertently signed and returned the Form 104. *Id.*; *Petitioner Exhibit A*. Mr. Robbins testified that Dr. Srinivasan did not realize that he had filed a personal property tax return for the Tippecanoe County office that was no longer operating until he received a tax bill the following year. *Id.*
 - B. Mr. Robbins testified that the Petitioner contacted the county upon receiving the tax bill and informed them that the business was closed and the Form 104 had been signed in error. *Robbins testimony; Petitioner Exhibits F and I*. According to Mr. Robbins, the County Assessor informed Dr. Srinivasan that, in order to correct the personal property return, he should have filed an amended personal property return within six months of the initial filing deadline. *Robbins testimony; Petitioner Exhibit J*. Because the time had elapsed to file an amended personal property tax return, Mr. Robbins testified, the Petitioner filed a Form 133 Petition instead. *Robbins testimony*.
 - C. The Petitioner contends that his case does not require an amended tax return because the purpose of an amended return is to correct the return of a functioning business. *Robbins testimony; Petitioner Exhibits A and F*. He had no business on March 1, 2010, in Tippecanoe County. *Id.* Further, Mr. Robbins contends, the Form 133 is the

correct form because the Petitioner's appeal is based on a mistake of fact and not a subjective error. *Id.*

D. Finally, Mr. Robbins contends that, while the Petitioner agrees he filed the personal property tax return, the assessor did not dispute the fact that the office was not in existence on the assessment date. *Robbins testimony.* Thus, Mr. Robbins argues the county should have corrected the assessment and should not continue to rely upon a mistake made by the taxpayer or his accountant. *Id.* According to Mr. Robbins, a similar situation occurred in Hendricks County and the Petitioner only had to write a letter stating that he had no personal property in the county on the March 1, 2011, assessment date and he was not required to file the Forms 103 and 104. *Robbins testimony; Petitioner Exhibit M.*

16. The Respondent contends that the Petitioner did not file an amended personal property tax return within the time allowed to do so and argues that a Form 133 Petition is not the correct method for appealing a personal property tax return. In support of this contention, the Respondent presented the following:

A. The Respondent contends that the Petitioner signed the Form 104 Petition certifying the form was correct and complete to the best of his knowledge. *Phillips testimony; Respondent Exhibit 1.* According to Ms. Phillips, the Tippecanoe County Assessor had no reason to believe that a taxpayer would self-report an incorrect value. *Id.* The tax bills were generated April 5, 2011, for the March 1, 2010, assessment date and mailed to the taxpayer. *Phillips testimony.* Ms. Phillips testified that the Petitioner returned his tax bill with a Form 133 Petition. *Id.; Respondent Exhibits 2 and 3.* Although the Petitioner was informed that the Form 133 was not the correct form to file, Ms. Phillips testified, he persisted in his appeal. *Id.* Therefore the matter was scheduled for a PTABOA hearing – which the Petitioner failed to attend. *Id.*

B. The Respondent contends that Indiana Code § 6-1.1-3-7.5 is very specific about the procedure for filing an amended personal property tax return. *Phillips testimony.*

According to Ms. Phillips, subsection (a) provides that if the taxpayer files a return before May 15, 2011, he has six months to file an amended return. *Id.*; *Respondent Exhibit 5*. Further, under subsection (c), if a taxpayer wishes to correct an error made on the taxpayer's original personal property tax return, the taxpayer must file an amended personal property tax return within the time required. *Id.* Ms. Phillips argues the language of subsection (c) is clear and unambiguous. *Phillips testimony*. In addition, the Form 133 states that it is not to be used to correct an error on a taxpayer's personal property return. *Id.*

ANALYSIS

17. Indiana's personal property tax system is a self-assessment system. Every person, including any firm, company, partnership, association, corporation, fiduciary, or individual owning, holding, possessing, or controlling personal property with a tax situs in Indiana on March 1 of a year must file a personal property tax return on or before May 15 of that year unless the person gets an extension of time. Ind. Code § 6-1.1-3-7; 50 IAC 4.2-2-2. If the taxpayer wishes to amend its personal property return, it may do so "not more than six (6) months, if the filing date for the original personal property tax return is before May 15, 2011, ... 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." Ind. Code § 6-1.1-3-7.5.
18. "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)." Ind. Code § 6-1.1-3-7.5. "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." *Id.*

19. Here, the Petitioner agreed that he filed a personal property tax return but contends that because he filed it in error, it should be disregarded. The Petitioner further admits he failed to amend his original return in compliance with Indiana Code § 6-1.1-3-7.5. The undisputed evidence establishes that the Petitioner filed his Form 104 on May 12, 2010, and never filed an amended return. Consequently, the Petitioner missed the opportunity to amend his return and remove the property on which the property tax was calculated.
20. The Petitioner claims, however, that relief should be granted because the personal property taxes are “illegal as a matter of law” and cited Indiana Code § 6-1.1-15-12 as support for his claim. However, Indiana Code § 6-1.1-15-12(g) specifically prohibits “this section” (Section 12 “Correction by county auditor of errors in tax duplicate”) from being used to correct errors made on the taxpayer’s personal property tax return: “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 § 6-1.1-15-12(g). Because the Petitioner’s remedy would have been to file an amended personal property tax return under Indiana Code § 6-1.1-3-7.5, the appeal process described in Indiana Code § 6-1.1-15-12 is not available in this case.⁴
21. Finally, the Form 131 appeal process is for taxpayers who are appealing the action of an assessing official. For example, the assessing official places an assessment on the personal property of a taxpayer who fails to file a property tax return, or the assessing

⁴ While the result may appear harsh given the Petitioner’s error in filing a personal property return where no property was located on the assessment date, the laws are no less strict for the county. Once a personal property tax return is filed, “[A]n . . . assessor . . . may not change the assessed value claimed by a taxpayer on a personal property return unless the . . . assessor . . . takes the action and gives the notice required by IC 6-1.1-3-20 within . . . five (5) months from the date the personal property return is filed if the return is filed after May 15 of the year for which the assessment is made.” Ind. Code § 6-1.1-16-1(a)(2)(B) (amended 2008). Should an assessor fail to change an assessment and give notice within the applicable time frame, “the assessed value claimed by the taxpayer on [its] personal property return *is final*.” Ind. Code § 6-1.1-16-1(b) (emphasis added).

official makes a change to an assessment that was filed by a taxpayer. In this case, the Petitioner seeks to correct an error he made when he filed the tax return. There was no action by the local assessing official with regard to the assessed value reported by the Petitioner. Accordingly, the appeal process found in Indiana Code § 6-1.1-15-1 is not available to the Petitioner.

22. The Petitioner contends a similar situation in Hendricks County was resolved with a letter stating that the Petitioner had no personal property in that county on the assessment date. However, in Hendricks County, the Petitioner did not file a personal property return and tendered the letter to the local assessing officials that no return was required in a timely manner. To the contrary, in Tippecanoe County the Petitioner filed a personal property tax return and failed to amend it according to the statutory requirements.

CONCLUSION

23. Under Indiana law, the only avenue of relief for the error that the Petitioner contends he made was to file an amended personal property return. And there is no dispute that the Petitioner did not timely file an amended return. The appeal processes found in Indiana Code § 6-1.1-15-12 (the Form 133 petition) and Indiana Code § 6-1.1-15-1 (the Form 131 petition) are not available to the Petitioner. Therefore the Board cannot grant relief on the above-referenced petition. The Board finds in favor of the Respondent and holds that there is no change of assessed value for the Petitioner's personal property in Tippecanoe County in 2010 as a result of this appeal.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, the Indiana Board of Tax Review determines that the assessed value of the Petitioner's personal property should not be changed for 2010.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

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>.