

REPRESENTATIVE FOR PETITIONER: Paul M. Pittman, BAKER SIEGEL & PAGE

REPRESENTATIVES FOR RESPONDENT: Steve Carter, ATTORNEY GENERAL
Ted J. Holaday, DEPUTY ATTORNEY GENERAL

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

In the matter of:

STANDARD PLASTIC CORPORATION,)	On Remand from the Indiana Tax Court
)	
Petitioner,)	Cause No.: 49T10-9606-TA-00072
)	
v.)	County: Wells
)	
DEPARTMENT OF LOCAL GOVERNMENT FINANCE,)	Taxing District: Bluffton
)	
Respondent)	Personal Property
)	Petition Number: 90-004-95-1-7-00006R
)	
)	Assessment Year: 1995

Findings of Fact and Conclusions of Law

This case initially came before the Board¹ upon Petitioner's objection to the recommendations of a Board field auditor concerning Petitioner's 1995 Business Tangible Personal Property Assessment Return (Form 103). On May 9, 1996, the Board issued its final determination, following a its March 14, 1996 administrative hearing. Petitioner's Representative filed its original tax appeal on June 21, 1996. The Tax Court remanded the appeal back to the State Board in an Order dated July 1, 2002.

¹ The Indiana Board of Tax Review assumed jurisdiction of this matter as the successor entity to the State Board of Tax Commissioners, and the Appeals Division of the State Board of Tax Commissioners. For convenience of reference, each entity is without distinction hereafter referred to as the "Board".

Issue

The following issues were remanded to the Board by the Tax Court:

1. Issue 1: Whether the Board's decision to value Petitioner's not-owned special tool molds by using its replacement cost list was supported by substantial evidence.
2. Issue 2: Whether the Board should have assessed a 20% undervaluation penalty against Petitioner.

The determinations concerning the remaining issues in the Board's final determination were affirmed by the Tax Court.

Background of Administrative Appeal and Litigation

1. On September 20, 1995, a Board field auditor conducted a hearing and audit of Petitioner's 1995 Business Tangible Personal Property Assessment Return.
2. On January 30, 1995 the field auditor issued a recommendation increasing the Petitioner's 1995 Personal Property Assessment and also recommending the imposition of a 20% penalty with respect to a portion of the assessed value.
3. Petitioner objected to the field auditor's recommendation and an administrative hearing before the Board was held on March 14, 1996.
4. On May 9, 1996, the Board issued its final determination, substantially following field auditor's recommendations.²
5. Pursuant to Ind. Code § 6-1.1-15-5, Petitioner's Representative appealed the determination to the Indiana Tax Court on June 21, 1996.
6. On July 1, 2002, the Tax Court issued an Order, affirming the Board's determination with respect to Issues II and III on appeals and remanding Issues I and IV (shown as Issues 1 and 2 above) back to the State Board for further proceedings consistent with the Tax Courts opinion *Standard Plastic Corporation v. Department of Local Government Finance*, 773 N.E.2d 379 (Ind. Tax 2002).
7. The Board did not seek review of the Tax Court's decision, and the decision is binding upon the Board.

² The Board followed the field auditor's recommendation and imposed the 20% penalty, but on a slightly smaller portion of the assessed value.

8. Because the Tax Court issued specific instructions, the Board will not be required to re-hear the matter.

Findings Made by Tax Court

9. As to Issue 1 (Issue I on appeal), the Tax Court directed the Board to use the estimated original cost list provided by Petitioner in its assessment of the not-owned special tool molds.
10. As to Issue 2 (Issue IV on appeal), the Tax Court directed the Board to determine whether the amount of undervaluation exceeds 5% of the assessment, after recomputation in light of the Tax Court's ruling with respect to Issue 1.

Jurisdictional Framework

11. This matter is governed by the provisions of Ind. Code § 6-1.1-15, and all other laws relevant and applicable to appeals initiated under those provisions, including all case law pertaining to property tax assessment or matters of administrative law and process.
12. The Board is authorized to issue this final determination of corrected assessment pursuant to Indiana Code § 6-1.1-15-8.

Findings of Fact and Conclusions of Law

1. If appropriate, any conclusions of law made herein shall also be considered a finding of fact. Also if appropriate, any finding of fact made herein shall be considered a conclusion of law.
2. The State Board is the proper body to hear a remand from the Indiana Tax Court pursuant to Ind. Code § 6-1.1-15-8.
3. Pursuant to the Remand Order concerning Issue 1, the Board has valued Petitioner's not-owned special tools based on Petitioner's estimate of the original cost of these tools, pursuant to 50 IAC 4.2-6-2. The relevant amount is \$355,950.
4. Pursuant to the Remand Order concerning Issue 2, after the evaluation of the special tools, the amount of undervaluation does not exceed 5% of the proper assessed amount. Therefore Petitioner is not subject to penalties pursuant to Ind. Code 6-1.1-37-7(e).

The above stated findings of fact and conclusions of law 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 26th day of September, 2002.

Chairman, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS ON REMANDED CASE -

You may petition for judicial review of this final determination of corrected assessment pursuant to the provisions of Indiana Code § 6-1.1-15-9. The action shall be taken to the Indiana Tax Court in the manner prescribed 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.