

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

**Petition No.:** 37-032-08-1-7-00001  
**Petitioner;** Hans Markland  
**Respondent:** Jasper County Assessor  
**Parcel No.:** 113-00064-00  
**Assessment Year:** 2008

The Indiana Board of Tax Review (the Board) issues this determination in the above matters, and finds and concludes as follows:

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Jasper County Property Tax Assessment Board of Appeals (the PTABOA) by written document dated July 24, 2009.
2. The PTABOA issued a notice of its decision.
3. The Petitioner filed a Form 131 petition with the Board on November 25, 2009. The Petitioner elected to have his case heard pursuant to the Board's small claims procedures.
4. The Board issued a notice of hearing to the parties dated March 16, 2010.
5. The Board held an administrative hearing on April 22, 2010, before the duly appointed Administrative Law Judge (the ALJ) Ellen Yuhan.
6. Persons present and sworn in at hearing:

For Petitioner: Hans Markland, Taxpayer

For Respondent: Donna Wiseman, Deputy Assessor,  
Earl D. Walton, PTABOA Chairman.

**Facts**

7. The subject property is personal property located in Wheatfield, in Jasper County.
8. The ALJ did not conduct an on-site visit of the property.

9. For 2008, the PTABOA determined the assessed value of the personal property to be \$80,000.
10. The Petitioner requested an assessed value of \$14,355.

### **Issues**

11. Summary of the Petitioner's contentions in support of an error in his assessment:
  - a. The Petitioner testified that he owns farmland in several states. *Markland testimony.* According to Mr. Markland he has farms in Illinois and Ohio, in addition to the land he owns in Indiana. *Id.* In support of this contention, the Petitioner submitted documents from the Illinois Secretary of State, property maps from Beaver County and Pigeon Grove, Illinois, and a "Current Agricultural Use Valuation Renewal Application for Tax Year 2008" from the Auditor of Miami County, Ohio. *Petitioner Exhibits 2 through 5.*
  - b. The Petitioner contends that his personal property is over-assessed because he was assessed for property located in other states. *Markland testimony.* According to Mr. Markland, his accountant inadvertently included farm equipment located in Illinois and Ohio on his Indiana personal property tax returns. *Id.; Petitioner Exhibit 1.* In response to questioning, Mr. Markland admitted that his accountant did not file an amended return. *Markland testimony.*
12. Summary of the Respondent's contentions in support of the assessment:
  - a. The Respondent's representative contends the Petitioner filed personal property tax returns in 2006 and 2007, reporting values of \$78,210 and \$78,190, respectively. *Wiseman testimony.* According to Ms. Wiseman, the county did not receive a response from the Petitioner for 2008. *Id.* Therefore, the trustee issued a Form 113 assessing a value of \$80,000 for the Petitioner's personal property. *Id.*
  - b. The Respondent's witness, Mr. Walton, testified that at the Petitioner's appeal hearing, the PTABOA requested that Mr. Markland supply a list of his equipment, the cost, and the date of purchase, so that the PTABOA could determine the proper value of the Petitioner's property. *Walton testimony.* Further, Mr. Walton contends, the county assessor sent a letter to the Petitioner on August 27, 2009, providing an example of the information the PTABOA required. *Id.; Respondent Exhibit 1.* According to Mr. Walton, however, the Petitioner failed to respond to the request and, therefore, the PTABOA made no change to the assessed value of the Petitioner's personal property. *Walton testimony.*

## Record

13. The official record for this matter is made up of the following:
- a. The Petition,
  - b. The compact disk recording of the hearing labeled 37-032-09-1-5-00001, 37-032-08-1-7-00001 Markland,
  - c. Exhibits:
    - Petitioner Exhibit 1 – Letter from Stanley Scholl regarding the Form 102 tax computations,
    - Petitioner Exhibit 2 – State of Illinois Corporate Annual Report Filing,
    - Petitioner Exhibit 3 – Plat map of Beaver County, Illinois,
    - Petitioner Exhibit 4 – Plat map of Pigeon Grove,
    - Petitioner Exhibit 5 – Agricultural Application, County of Miami, Ohio,
    - Petitioner Exhibit 6 – IRS Employee Identification Number,
  
    - Respondent Exhibit 1 – Letter to Mr. Markland dated August 27, 2009,
  
    - Board Exhibit A – Form 131 petition,
    - Board Exhibit B – Notice of Hearing, dated March 16, 2010,
    - Board Exhibit C – Hearing sign-in sheet,
  - d. These Findings and Conclusions.

## Analysis

14. The most applicable governing cases are:
- a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
  - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer

evidence that impeaches or rebuts the Petitioner's case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioner failed to provide sufficient evidence to establish an error in his assessment. The Board reached this decision for the following reasons:
- a. Personal property includes all “tangible property (other than real property) which is being: (A) held in the ordinary course of a trade or business; (B) held, used, or consumed in connection with the production of income; or (C) held as an investment.” *See* Ind. Code § 6-1.1-1-11. 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 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.” *See* 50 IAC 4.2-2-2.
  - b. Here, the parties disagree as to whether the Petitioner filed a 2008 personal property return. The Petitioner contends he filed a personal property tax return for 2008, but he presented no evidence of that return. Although Mr. Markland argued that the Respondent had the return, it was his burden to “walk the Indiana Board . . . through every element of the analysis.” *See Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004). Further, the letter from the Petitioner’s accountant states that it is in regard to the Form 102/104 for tax year ended March 1, 2009, rather than the 2008 tax year appealed here. Thus, the evidence suggests that the Petitioner failed to file any return for the 2008 assessment year.
  - c. When a taxpayer fails to file a personal property tax return, “the township or county assessor may estimate the value of the personal property of the taxpayer and shall assess the person owning, holding, possessing, or controlling the property in an amount based upon the estimate.” 50 IAC 4.2-3.1-2(c). “Upon receiving a notification of estimated value from the township or county assessor, the taxpayer may elect to file a personal property return within thirty (30) days from first notice of assessment.” *Id.* Here, there is no evidence that the Petitioner filed a personal property tax return in response to the assessor’s estimated valuation. In fact, the evidence shows that the Petitioner did not even respond to the PTABOA’s request for information so that the PTABOA could re-examine the assessor’s valuation. Thus, the assessor’s estimated value must stand. *See Adams v. Spears*, Indiana Tax Court, Cause No. 49T10-0305-TA-25 (June 28, 2004) (unpublished decision) (“Adams bore the responsibility to timely file his return; because he did not, the Assessor could estimate an assessment... Adams had the opportunity to challenge the Assessor’s estimate; he failed to do so within the proper time frame... Thus, the court concludes that the Assessor acted within its authority in estimating and assigning a value to his property.”).

- d. Even if the Board found that the Petitioner filed a personal property return for 2008, the Petitioner admitted that the assessed value of the property comported with the amount reported by his accountant. Mr. Markland only claims that some of the property was reported on his Indiana return in error. If a taxpayer wishes to correct an error on the taxpayer's personal property tax return, the taxpayer must "file an amended personal property tax return under IC 6-1.1-3-7.5." 50 IAC 4.2-2-5.1(h). Pursuant to Indiana Code § 6-1.1-3-7.5, a taxpayer may file an amended return not more than six months after the filing date of the original return. For 2008, the Form 102 must have been filed by May 15, 2008, if no extension was requested. Thus, an amended return was due by November 15, 2008. The Petitioner, by his own admission and as evidenced by the letter from his accountant, had not filed an amended return as of April 21, 2010 – almost two years after the original filing date. Consequently, the Petitioner missed the opportunity to amend his personal property return in compliance with Indiana Code § 6-1.1-3-7.5 and the value reported on his return must stand.<sup>1</sup>
- e. The Petitioner failed to establish a prima facie case. Where the Petitioner has not supported his claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. LTD v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### Conclusion

16. The Petitioner failed to raise a prima facie case. The Board finds in favor of the Respondent.

### Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: \_\_\_\_\_

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<sup>1</sup> The Board further notes that the Petitioner presented no evidence to support his case. Mr. Markland failed to identify any equipment at issue and provided no evidence of the cost of any property. Mr. Markland merely made vague references to "some" equipment being located on land he owned in other states. A petitioner must submit "probative evidence" that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, are not sufficient to establish an alleged error. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax 1998).

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Chairman, Indiana Board of Tax Review

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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>.