

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

**Petition #:** 66-009-05-1-7-00001  
**Petitioner:** Sonja Dauparas  
**Respondent:** Jefferson Township Assessor (Pulaski County)  
**Parcel #:** Personal Property  
**Assessment Year:** 2005

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

**Procedural History**

1. The Petitioner filed a Farmer's Tangible Personal Property Assessment Return (Form 102) for the 2005 assessment year on February 24, 2005.<sup>1</sup> On April 4, 2005, Ms. Lorena Van Der Aa, Pulaski County Assessor, on behalf of the Pulaski County Property Tax Assessment Board of Appeals (the PTABOA) notified the Petitioner on a Form 113, Notice of Assessment by Assessing Officer, of a change in the assessed value for the personal property indicated on the Form 102.
2. Upon notice of this change, the Petitioner initiated a personal property assessment appeal with the PTABOA by written documentation dated June 2, 2005. The Petitioner received notice of the decision of the PTABOA on August 29, 2005.
3. The Petitioner filed an appeal to the Board by filing a Form 131, Petition for Review of Assessment, with the county assessor on September 28, 2005. The Petitioner elected to have this case heard in small claims.
4. The Board issued notice of hearing to the parties dated May 4, 2006.
5. The Board held an administrative hearing on June 22, 2006, before the duly appointed Administrative Law Judge (the ALJ) Dalene McMillen.

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<sup>1</sup> The records contained within the Form 102 Farmer's Tangible Personal Property Assessment Return are confidential in accordance with Ind. Code § 6-1.1-35-9.

6. Persons present and sworn in at hearing:<sup>2</sup>
- a. For Petitioner: Sonja Dauparas, Owner  
Joseph Dauparas, Witness  
Kevin Tankersley, Attorney for the Petitioner
  - b. For Respondent: Lorena Van Der Aa, Pulaski County Assessor  
Barbara J. Clark, Pulaski County Deputy Assessor  
Martha Krohn, PTABOA Member  
Jerry G. Sullivan, Sr., PTABOA Member  
Stanley G. Boehning, PTABOA Member  
Allen Cotner, PTABOA Member  
Jennifer Becker, Jefferson Township Representative

### Facts

- 7. The subject property is classified as business tangible personal property consisting of two T40A AG-Rain hard hose travelers, located at Route 39 & 200 North, Winamac, Jefferson Township, in Pulaski County. The irrigation equipment is classified as depreciable personal property on the Form 102.
- 8. The ALJ did not conduct an on-site visit of the subject property.
- 9. The PTABOA determined the assessed value of the personal property to be \$15,000.
- 10. The Petitioner requested an assessed value of \$4,320.

### Issue

- 11. Summary of Petitioner's contentions in support of an error in the assessment:
  - a. The Petitioner contends that she is paying taxes in 2005 on equipment that is 10 and 11 years old and that this was not the intent of the law. *Tankersley argument*. The Petitioner argues that, even though case law indicates that it is the assessed value as of 1999, it also states property is valued as it physically appears in 2005. *Id.* Thus, the Petitioner contends, the Petitioner is receiving no benefit from the property. *Id.* The Petitioner's attorney admitted, however, that the irrigation system was still in use by the Petitioner. *Id.*
  - b. The Petitioner further contends that the property is over-valued based on its market value. *Tankersley argument*. In support of this contention the Petitioner submitted an estimate of value prepared by Mr. Aaron Shidler, Chester

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<sup>2</sup> Ms. Lorena Van Der Aa, Ms. Barbara J. Clark, Ms. Martha Krohn, Mr. Jerry G. Sullivan, Sr., Mr. Stanley G. Boehning and Mr. Allen Cotner were present during the administrative proceedings on behalf of the Respondent, but they were not sworn in to present testimony.

Agricultural Systems, whereby Mr. Shidler determined that the value of the 1996 irrigation equipment to be \$7,200 as of September 19, 2005. *Petitioner Exhibit 4*. The Petitioner argues that the fair market value for the 1995 irrigation equipment is around the same value as the 1996 equipment. *Tankersley argument*. Thus, according to the Petitioner, the total value for the two systems would be \$14,400. *Id.* The Petitioner concludes then that the taxable value of the personal property for 2005 would be 30% of the \$14,400 or approximately \$4,000 and not the \$15,000 presently assessed. *Id.*

12. Summary of Respondent's contentions in support of the assessment:

- a. The Respondent contends that a Form 113 was sent to the Petitioner because a discrepancy was found between the Petitioner's 2004 and 2005 personal property returns. *Becker testimony*. The Respondent contends that the Form 102 filed in February 2005 by the Petitioner indicated a value of \$640 and the Form 102 filed by Mr. Dauparas for 2004 indicated a value of \$15,000 for the same equipment. *Id.*
- b. The Respondent contends that the \$640 reported by the Petitioner was not a proper value of the personal property at issue. *Becker testimony*. According to the Respondent, a copy of a check submitted for the purchase of the subject property showed that it was purchased by Mrs. Dauparas from Mr. Dauparas in the amount of \$1,600 on December 28, 2004. *Id.* Thus, the Respondent contends, the sale was not considered an arms' length transaction as they are husband and wife. *Becker testimony; Respondent Exhibit 5*. Therefore, the PTABOA did not consider the \$1,600 sales price relevant in determining the value of the subject personal property on the Form 102.<sup>3</sup> *Becker testimony*.
- c. The Respondent further argues that the Petitioner's 2004 and 2005 Federal Depreciation Schedules show that Mr. and Mrs. Dauparas depreciated the 1995 and 1996 irrigation equipment at their costs of \$25,646 and \$25,000 respectively. *Becker testimony*. Thus, the Respondent contends, the amount shown on the Form 102 filed by Mr. Dauparas in 2004, more accurately represents the value of the subject personal property for 2004 and 2005. *Becker testimony; Petitioner Exhibits 2 & 3*.
- d. Finally, the Respondent asserts that Mr. Dauparas' reported a value \$15,000 is applied to the property because the Petitioner is assumed not to have made a mistake in the value that he self reported. *Becker testimony*. According to the Respondent, in Indiana personal property is self-reporting. *Id.*

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<sup>3</sup> The Petitioner's attorney also testified that the sale between Mrs. Dauparas and Mr. Dauparas had no relevancy nor was it an indicator of value for the subject equipment. *Tankersley argument*.

## Record

13. The official record for this matter is made up of the following:

- a. The Petition,
- b. The tape recording of the hearing labeled STB #5185 ,
- c. Exhibits:

Petitioner Exhibit 1 - Receipt for a T40A AG-Rain Hard Hose Traveler from Chester, Inc. dated May 17, 1996,

Petitioner Exhibit 2 – 2004 Federal Depreciation Schedule for Joseph and Sonja Dauparas, dated December 31, 2004,

Petitioner Exhibit 3 – 2005 Federal Depreciation Schedule for Joseph and Sonja Dauparas, dated December 31, 2005,

Petitioner Exhibit 4 – Estimate of value letter from Chester Agricultural Systems to Joseph and Sonja Dauparas, dated September 19, 2005,

Petitioner Exhibit 5 – Copy of a check from Sonja Dauparas to Joseph Dauparas, dated December 28, 2004,

Petitioner Exhibit 6 – 2005 Farmer’s Tangible Personal Property Assessment Return – Form 102 for Sonja Dauparas,

Petitioner Exhibit 7 – Notice of Assessment by Assessing Officer – Form 113,

Petitioner Exhibit 8 – Personal property tax statement for 2005 payable 2006,

Petitioner Exhibit 9 – Copy of the Form 130 petition,

Petitioner Exhibit 10 – Copy of the Form 131 petition,

Petitioner Exhibit 11 – Notice of County Property Tax Assessment Board of Appeals of Hearing on Petition – Form 114,

Petitioner Exhibit 12 – Notification of Final Assessment Determination – Form 115,

Petitioner Exhibit 13 – Notice of Appearance

Respondent Exhibit 1 – Jefferson Township Assessor Representative’s response to the Form 131 petition issues,

Respondent Exhibit 2 – Notice of Appearance of Consultant on behalf of Assessor from Betty Kruger, Jefferson Township Assessor to Jennifer Becker, Indiana Assessment Service,

Respondent Exhibit 3 – 2005 Farmer’s Tangible Personal Property Assessment Return – Form 102 for Sonja Dauparas,

- Respondent Exhibit 4 – 2004 Farmer’s Tangible Personal Property Assessment Return – Form 102 for Joseph Dauparas,
  - Respondent Exhibit 5 – Copy of a check from Sonja Dauparas to Joseph Dauparas, dated December 28, 2004,
  - Respondent Exhibit 6 – Notice of Assessment by Assessing Officer – Form 113,
  - Respondent Exhibit 7 – Respondent Signature and Attestation Sheet, dated June 19, 2006,
  - Respondent Exhibit 8 – Copy of 50 IAC 4.2-4-3, “Fully depreciated, retired or nominally valued property; computer equipment, reported and valuation”,
- Board Exhibit A – Form 131 petition,  
Board Exhibit B – Notice of Hearing,  
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 evidence. *Id.; Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioner failed to provide sufficient evidence to establish a prima facie case for a reduction in the assessment of personal property. The Board reached this decision for the following reasons:
- a. The Petitioner contends that the assessed value of the Petitioner's personal property was increased by the PTABOA to \$15,000 which exceeds the market value of the subject property. *Tankersley testimony*. In support of this contention the Petitioner presented a letter prepared by Aaron Shidler of Chester Agricultural Systems, dated September 19, 2005, estimating the value of a "1996" T40A AG-Rain Hard Hose Traveler W/ 1250' x 4" hose turbine drive at \$7,200. *Petitioner Exhibit 4*. The Petitioner argues that if you assume that the 1995 and 1996 irrigation equipment both have a market value of \$7,200 each, then the total value of the subject property would be \$14,400. *Id.* The Petitioner further contends that the market value of the subject property should be assessed at 30% of its value and, therefore, concludes that the true tax value of the personal property for 2005 is \$4,320. *Id.*
  - b. Indiana's personal property tax system is a self-assessment system. *See Paul Heuring Motors, Inc. v. State Board of Tax Commissioners*, 620 N.E.2d 39, 41 (Ind. Tax Ct. 1993). Every person "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." Ind. Code § 6-1.1-1-7; Ind. Code § 6-1.1-3-7; 50 IAC 4.2-1-1 (e); 50 IAC 4.2-2-2.
  - c. The property at issue here is depreciable personal property. In pertinent part, "depreciable personal property" is "all tangible personal property as defined in 50 IAC 4.2-1-1 (h) that is used for the production of income, or held as an investment that should be or is subject to depreciation for federal income tax purposes." 50 IAC 4.2-4-1. In general, personal property is deemed to be depreciable property when a depreciation deduction is allowed for federal income tax purposes. *Id.*
  - d. The cost of depreciable property is "the total amount reflected on the books and records of the taxpayer." 50 IAC 4.2-4-2. The cost of the depreciable personal property includes both its direct costs and an appropriate portion of indirect costs attributable to its production or acquisition and preparation for use. *Id.* The depreciable life used for federal income tax purposes, then, determines the percentage factor by which the cost of the property is multiplied to determine its "true tax value." 50 IAC 4.2-4-7. Regardless of the percentage factor adjustment, however, the total valuation of a taxpayer's depreciable personal property cannot

be less than thirty percent of the adjusted cost of all depreciable personal property of the taxpayer. 50 IAC 4.2-4-9.<sup>4</sup>

- e. The clear and unambiguous language of 50 IAC 4.2-4-1 and 50 IAC 4.2-4-2, states that depreciable property is determined by the taxpayer's books and records and as deducted for federal income tax purposes. The Petitioner's 2004 and 2005 Federal Depreciation Schedules show that the subject property was depreciated on a cost basis of \$25,646 and \$25,000 with a seven year life expectancy. *See Petitioner Exhibits 2 & 3.* The Board finds that for the 2005 assessment, the two irrigation systems should be valued on the 2005 Form 102 in accordance with the dates of the original acquisition of June 12, 1995, and May 28, 1996, at the reported cost values of \$25,646 and \$25,000, or a total of \$50,646. This amount is, then, adjusted by a percentage factor based on its life expectancy. *See 50 IAC 4.2-4-7.* While the personal property at issue here is fully depreciated, however, under Indiana law the true tax value cannot be less than 30% of the adjusted cost of all of the taxpayer's depreciable personal property. *See 50 IAC 4.2-4-9.* Thus, despite the fact that the Petitioner contends the property has exceeded its life expectancy, because the property is still in use, it is subject to the 30% limitation. Applying this adjustment to the \$50,646 reported costs results in an assessed value for the subject property of \$15,190.
- f. The Petitioner argues that the property should be valued based on its "fair market value." *Tankersley argument.* In support of this argument, the Petitioner presented a letter estimating a value for the 1996 irrigation equipment at \$7,200, and then concluded the value of the 1995 irrigation equipment would also be around \$7,200, for a total value for the depreciable property of \$14,400.<sup>5</sup> *Petitioner Exhibit 4.*
- g. "True tax value does not mean fair market value." 50 IAC 4.2-1-1(f). Thus, "fair market value" is not relevant to the valuation of personal property. *See 50 IAC 4.2 et seq.* Even if we were to consider the Petitioner's "fair market value" argument as an alternative to the method of valuation, however, the Petitioner has

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<sup>4</sup> Even if personal property is fully depreciated, unless it is retired from use, the property must still be reported for assessment purposes pursuant to the personal property assessment rules. *See 50 IAC 4.2-4-3.*

<sup>5</sup> Although the Petitioner submitted an estimate of value for the 1996 irrigation system, the estimate failed to explain how the value was determined or what criteria was used. *Petitioner Exhibit 4.* Consequently, the Opinion of value is not probative of the subject property's market value. *See Inland Steel Co. v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000) (holding that an appraiser's opinion lacked probative value where the appraiser failed to explain what a producer price index was, how it was calculated or that its use as a deflator was a generally accepted appraisal technique). Further, the Petitioner failed to submit any estimation of value for the 1995 irrigation system. Even if we were to accept the valuation of the 1996 irrigation system, the Petitioner submitted no evidence of the value of the 1995 system. Finally, the Petitioner failed to explain the discrepancy between her books and records for federal tax purposes, and her estimate of value. Thus, even if "fair market value" were relevant to the valuation of personal property, the Petitioner failed to adequately prove the value of the property at issue here.

failed to raise a prima facie case. The Petitioner's estimation of "fair market value" supports the \$15,000 assessed value at issue here.<sup>6</sup> *Petitioner Exhibits 2 & 3.*

### **Conclusion**

16. The Petitioner failed to make a prima facie case regarding an error in the assessment. 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 personal property assessment should not be changed for 2005.

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

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Commissioner,  
Indiana Board of Tax Review

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<sup>6</sup> The Petitioner further argued that the "fair market value" should be adjusted by 30%, resulting in an assessed value for the personal property for 2005 of approximately \$4,000. *Tankersley argument.* If the property is valued at current "fair market value" as the Petitioner alleges here, there is no basis for any further depreciation adjustment. Thus, the Petitioner's "fair market value" argument is that the property is currently worth \$14,400.



## 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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <[http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html)>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.**