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IN THE INDIANA TAX COURT

INGREDION, INCORPORATED,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 20T-TA-00007
	)	
MARION COUNTY ASSESSOR,	)	
	)	
Respondent.	)	

ON APPEAL FROM A FINAL DETERMINATION
OF THE INDIANA BOARD OF TAX REVIEW

FOR PUBLICATION
February 25, 2022

WENTWORTH, J.

Ingredion, Incorporated challenges the Indiana Board of Tax Review's final determination denying its claim for refund under Indiana Code § 6-1.1-3-7.5 for personal property tax it overpaid for the 2011 tax year. Upon review, the Court affirms the Indiana Board's final determination.

FACTS AND PROCEDURAL HISTORY

Ingredion timely filed its Indiana Business Tangible Personal Property Assessment Returns reporting the value of its tangible personal property located at its Indianapolis

manufacturing facility for the 2011, 2012, and 2013 tax years. (See Cert. Admin. R. at 37-148.) On April 4, 2014, the Assessor sent Ingredion a letter initiating an audit of those returns and requesting certain documents necessary to reconcile Ingredion's reported values with its financial records. (See Cert. Admin. R. at 32 ¶ 9, 149.)

During the course of the audit, Ingredion discovered that its former personal property tax return preparation firm had incorrectly reported the costs of its assets by using the original installed (historical) cost basis instead of the federal tax cost basis. (See Cert. Admin. R. at 33 ¶ 17, 166.) On June 30, 2014, Ingredion provided the Assessor with a written report comparing the historical costs of its personal property costs reported on its Indiana returns to its costs reported on its federal depreciation schedules. (See Cert. Admin. R. at 33 ¶ 18.) The report showed that upon correcting the overstated costs reported for each year, Ingredion would owe additional personal property taxes for 2012 and 2013, but would have overpaid tax for 2011. (See Cert. Admin. R. at 33-34 ¶ 19.)

On April 14, 2015, the Assessor issued two Forms 113/PP (Notice of Assessment/Change) and a letter summarizing his final 2012 and 2013 audit findings, increasing Ingredion's assessments for both 2012 and 2013. (See Cert. Admin. R. at 150-58, 160-61.) The administrative record does not contain a Form 113/PP for 2011, nor did the Assessor's audit summary letter make any reference to audit results for 2011. (See Cert. Admin. R.)

On May 7, 2015, during the pendency of the audit, Ingredion filed a refund claim seeking to recover its tax overpayment for the 2011 tax year. (See Cert. Admin. R. at 162-201.) On August 7, 2018, however, Ingredion sought relief with the Marion County Superior Court because the Assessor had not yet approved nor denied its claim for

refund. (See, e.g., Cert. Admin. R. at 257.) On January 14, 2019, the Marion County Superior Court ordered the Assessor to either approve or deny Ingredion's refund claim within 30 days. (See Cert. Admin. R. at 257-70.) On January 25, 2019, the Marion County Property Tax Assessment Board of Appeals denied Ingredion's claim for refund. (See Cert. Admin. R. at 271-73.)

Ingredion appealed to the Indiana Board on March 4, 2019.[1] (See Cert. Admin. R. at 274-82.) Two days later Ingredion filed a motion for summary judgment claiming that because the Assessor had discovered Ingredion's 2011 overpayment of tax during the audit, Indiana Code § 6-1.1-9-10 required him to provide either a credit or refund for that overpayment.[2] (See Cert. Admin. R. at 12-13, 22-28.)

On April 5, 2019, the Assessor filed a cross-motion for summary judgment, claiming that he neither audited nor adjusted Ingredion's 2011 return because Ingredion failed to provide certain information before the three-year statute of limitations in Indiana Code § 6-1.1-9-3(a) had elapsed, barring him from making a change to Ingredion's return. (See Cert. Admin. R. at 288-92.) Consequently, the Assessor argued that the only way that Ingredion could have obtained a refund for 2011 was by filing an amended return, but it failed to do so. (See Cert. Admin. R. at 291-92.)

On January 30, 2020, the Indiana Board issued its final determination granting summary judgment to the Assessor because Ingredion had not filed the requisite

[1] The Court notes that the Indiana Board of Tax Review stamped Ingredion's Petition for Review Before the Indiana Board as received on March 1, 2019, which is three days before the Certificate of Service was signed and dated. (See Cert. Admin. R. at 274-75.)

[2] Ingredion claimed it was entitled to a credit under Indiana Code § 6-1.1-9-10 in the amount of its 2011 overpayment to offset the audit assessments for 2012 and 2013, which the Court resolved in a companion case issued concurrently with this case. See Ingredion, Inc. v. Marion Cnty. Assessor, No. 20T-TA-00006, slip op. (Ind. Tax Ct. Feb. 25, 2022).

amended return. (See Cert. Admin. R. at 322 ¶ 1, 327-28 ¶ 15.) Noting that a taxpayer has twelve months to file an amended return to correct an error on its personal property tax return, the Indiana Board found it was not "likely that the General Assembly intended to waive [the amended return deadline] simply because an assessor initiated an audit." (Cert. Admin. R. at 327 ¶ 14.) Accordingly, the Indiana Board determined that if Ingredion wished to correct the error, it should have filed an amended return. (See Cert. Admin. R. at 327 ¶ 14.)

On March 13, 2020, Ingredion initiated this original tax appeal. The Court heard oral argument on October 8, 2020. Additional facts will be supplied as necessary.

STANDARD OF REVIEW

The party seeking to overturn an Indiana Board final determination bears the burden of demonstrating its invalidity. Hubler Realty Co. v. Hendricks Cnty. Assessor, 938 N.E.2d 311, 313 (Ind. Tax Ct. 2010). The Court will reverse a final determination if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of or short of statutory jurisdiction, authority, or limitations; without observance of the procedure required by law; or unsupported by substantial or reliable evidence. IND. CODE § 33-26-6(e)(1)-(5) (2022). Upon review, the Court will not reweigh the evidence or judge the credibility of witnesses, but will review questions of law arising from the Indiana Board's factual findings de novo. Kellam v. Fountain Cnty. Assessor, 999 N.E.2d 120, 122 (Ind. Tax Ct. 2013), review denied.

LAW

The Legislature has provided taxpayers two distinct ways to correct errors made

on their original personal property tax returns. The first way allows taxpayers to initiate a correction, effectively changing the reported value of their tangible personal property, by filing an amended return not more than twelve months after the due date of the original return or after the extension date, if an extension was granted. See IND. CODE § 6-1.1-3-7.5(a), (c) (2011). The second way requires an assessor to initiate the correction as follows:

> [i]f in the course of a review of a taxpayer's personal property assessment under this chapter an assessing official . . . discovers an error indicating that the taxpayer has overreported a personal property assessment, the assessing official shall: (1) adjust the personal property assessment to correct the error; and (2) process a refund or credit for any resulting overpayment.

IND. CODE § 6-1.1-9-10(a) (2014) (emphasis added) (amended 2020 (effective Jan. 1, 2019)).

ANALYSIS

On appeal, Ingredion claims that the Indiana Board acted contrary to law by disregarding Indiana Code § 6-1.1-9-10, which required the Assessor to correct Ingredion's 2011 overpayment and provide either a refund or credit in the amount of the overpayment. (See Pet'r Br. at 7-8.) Ingredion argues that the Legislature enacted Indiana Code § 6-1.1-9-10 to impose a mandatory duty on assessors as a way of "curing a structural defect in Indiana's property system that resulted in unfair assessments in the context of a personal property tax audit." (Pet'r Br. at 9.) Ingredion contends that the Indiana Board's final determination denying a refund nullified the mandate in Indiana Code § 6-1.1-9-10 by determining Ingredion's sole remedy was to file an amended return. (See Pet'r Br. at 11-15.)

In response, the Assessor claims that the Indiana Board's decision was correct because filing an amended return was Ingredion's sole remedy to correct its own error. (See Resp't Br. at 4-5.) The Assessor explains that despite Ingredion's arguments to the contrary, there is no entitlement to "an automatic refund with no qualifications or limitations." (See Resp't Br. at 2.) The Assessor argues that Ingredion's analysis of Indiana Code § 6-1.1-9-10 is incomplete because it ignores the time limitations in Indiana Code § 6-1.1-9-3 that restrict when an assessor may act under Indiana Code § 6-1.1-9-10. (See Resp't Br. at 2-3.)

Although the time within which an assessor may initiate and conduct an audit of a taxpayer's personal property tax return is not limited, the time within which he may make a change to a taxpayer's return is limited by statute. See Lake Cnty. Assessor v. Amoco Sulfur Recovery Corp., 930 N.E.2d 1248, 1254 (Ind. Tax Ct. 2010), review denied. Indeed, there are two statutes of limitation that may apply to the time in which an assessor may change the assessed value claimed by a taxpayer on the taxpayer's personal property tax return. See IND. CODE §§ 6-1.1-9-3(a) (2011), 16-1(a)(2) (2011) (amended 2014). The first provides that if a taxpayer's personal property tax return does not "substantially comply" with the property tax statutes and Department of Local Government Finance regulations, an assessor may make changes to that return within three years after the date the return was filed (the "3-Year Limitation"). See I.C. § 6-1.1-9-3(a). The second and shorter statute of limitations provides that if a taxpayer's return "substantially complies," an assessor may only make changes to the assessed values claimed on the taxpayer's return by October 30 of the year the return was filed or 5 months from the date the return is filed if it is filed after May 15 of the year the assessment is made (the "5-

Month Limitation"). See I.C. § 6-1.1-16-1(a)(2). Thus, whether the 3-Year Limitation or the 5-Month Limitation applies to an assessor's alteration depends on whether a taxpayer's return "substantially complies" with the property tax statutes and Department's regulations. See I.C. §§ 6-1.1-9-3(a), 16-1(a)(2).

In a companion case, decided concurrently with this one, the Court held that determining whether "returns substantially comply [is] based on whether they 'substantially undermined the objectives of th[e property] statutes and regulations.'" See Ingredion, Inc. v. Marion Cnty. Assessor, No. 20T-TA-00006, slip op. at 12 (Ind. Tax Ct. Feb. 25, 2022) ("Ingredion I"). Furthermore, "Indiana's Legislature has explained the objectives of a personal property tax return require taxpayers to 'make a complete disclosure of all information required by the [Department] that is related to the value, nature, or location of [their] personal property[.]'" Id. at 12. Indeed, the companion case issued concurrently with this one raised the same statute of limitations conundrum and held Ingredion's 2012 and 2013 returns substantially complied because they disclosed both the value (albeit inaccurately) and location of Ingredion's personal property, meeting the statutory objectives of the property tax statutes and administrative regulations. See Id. at 12-14.

Here, the record shows that Ingredion's 2011 personal property tax return has facts similar to the 2012 and 2013 tax returns in Ingredion I. (Compare Cert. Admin. R. at 37-68, with Ingredion I at 2, 11-14.) For example, Ingredion's 2011 return lists the address where its property was located and discloses the value (albeit inaccurately) of its personal

property (Compare Cert. Admin. R. at 37-67, with Ingredion I at 12-14.)[3] Thus, Ingredion's 2011 return, like its 2012 and 2013 returns in Ingredion I, "substantially complies" because it does not "substantially undermine[ ] the objectives of th[e property] statutes and regulations." See Ingredion I at 12, 14.

Because Ingredion's 2011 return substantially complied, the 5-Month Limitation applies, barring the Assessor from changing the assessed value Ingredion claimed on its original 2011 return after October 30, 2011. See I.C. § 6-1.1-16-1(a)(2). See also I.C. § 6-1.1-9-3 (stating that Indiana Code § 6-1.1-16-1 provides the statute of limitations when a taxpayer's return "substantially complies"). The Assessor initiated his audit of 2011 on April 4, 2014, two years and five months after the last day he was statutorily allowed to make changes to Ingredion's 2011 return. See I.C. § 6-1.1-16-1(a)(2). Thus, Ingredion's argument that Indiana Code § 6-1.1-9-10 required the Assessor to change Ingredion's 2011 return by correcting its overpayment and issuing a refund fails; to hold otherwise would nullify the 5-Month Limitation set forth in Indiana Code § 6-1.1-16-1(a)(2). See Hamilton Square Inv., LLC v. Hamilton Cnty. Assessor, 60 N.E.3d 313, 317 (Ind. Tax Ct. 2016), review denied (stating that the Court will not presume "that the Legislature intended to enact a statutory provision that is superfluous, meaningless, or a nullity"). Therefore, the assessed value Ingredion claimed on its original 2011 return is final and Ingredion is not entitled to a refund.

[3] Indiana Code § 6-1.1-3-9(a) requires "complete disclosure of all information required by the department of local government finance that is related to the value, nature, or location of personal property[.]" See IND. CODE § 6-1.1-3-9(a) (2011). The statute therefore insists on complete, rather than accurate disclosure. See I.C. § 6-1.1-3-9(a). Moreover, this Court rejected a claim that a significant amount of misreporting frustrated the manifest objectives of accurate self-reporting. See Lake Cnty. Assessor v. Amoco Sulfur Recovery Corp., 930 N.E.2d 1248, 1251-57 (Ind. Tax Ct. 2010), review denied.

CONCLUSION

Ingredion has not shown that the Indiana Board acted contrary to law by denying its claim for refund. Accordingly, the Indiana Board's final determination is AFFIRMED.