

Representative for Petitioner:  
Jerome L. Withered, WITHERED BURNS, LLP

Representative for Respondent:  
Kelly Balensiefer, *pro se*

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Bruce Buchanan,	)	Petition Nos.: 04-010-11-1-7-82409-15
	)	04-010-12-1-7-20478-15
Petitioner,	)	04-010-13-1-7-20488-15
	)	
v.	)	Parcel No.: 04-110-10017-00
	)	
Benton County Assessor,	)	County: Benton
	)	
Respondent.	)	Assessment Years: 2011, 2012, 2013

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Appeals from Final Determinations of the  
Benton County Property Tax Assessment Board of Appeals

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**February 17, 2017**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**INTRODUCTION**

1. Bruce Buchanan challenged assessments that the Benton County Assessor imposed after auditing his personal property returns for 2011-2013. Buchanan failed to support what he claimed were the proper costs for various pieces of equipment the Assessor had over-valued. Even if Buchanan had done so, his accountant’s proposal for correcting the

assessments contained too many unexplained discrepancies to show what the correct assessments should be. We therefore find for the Assessor.

### PROCEDURAL HISTORY

2. Buchanan filed personal property returns for 2011-2013. On February 7, 2014, the Benton County Assessor issued Form 113/PP notices changing Buchanan's self-reported assessments. Buchanan sought review with the Benton County Property Tax Assessment Board of Appeals ("PTABOA"). On October 8, 2015, the PTABOA issued notice of its determinations upholding the assessment for each year. Buchanan timely filed Form 131 petitions with the Board.
3. On June 23, 2016, our designated administrative law judge, Jacob Robinson ("ALJ"), held a hearing on Buchanan's petitions. Neither he nor the Board inspected Buchanan's property.
4. The following people were sworn in as witnesses and testified under oath at the hearing:

For Buchanan:	Bruce Buchanan Russell Leigh, certified public accountant Ronald Cox, certified public accountant
For the Assessor:	John P. Shelton, Regional Manager, Tax Management Associates, Inc. <sup>1</sup>
5. Buchanan submitted the following exhibits:

Petitioner Exhibit 1:	2011 Business Tangible Personal Property Return
Petitioner Exhibit 2:	2012 Business Tangible Personal Property Return
Petitioner Exhibit 3:	2013 Business Tangible Personal Property Return
Petitioner Exhibit 4:	IRS Publication 551, p. 7
Petitioner Exhibit 5:	Form 115 notification for 2011
Petitioner Exhibit 6:	Form 115 notification for 2012
Petitioner Exhibit 7:	Form 115 notification for 2013
Petitioner Exhibit 8:	Form 131 petition for 2011

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<sup>1</sup> Kelly Balensiefer, Rene Bettcher, and Nicholas F. Getz were sworn in but they did not testify.

Petitioner Exhibit 9: Form 131 petition for 2012  
 Petitioner Exhibit 10: Form 131 petition for 2013  
 Petitioner Exhibit 11: Federal Asset Report – Year Ending 12/31/2011 with invoices and purchase orders attached  
 Petitioner Exhibit 12: Federal Asset Report – Year Ending 12/31/2012 with invoices and purchase orders attached  
 Petitioner Exhibit 13: Federal Asset Report – Year Ending 12/31/2013 with invoices and purchase orders attached  
 Petitioner Exhibit 14: Bruce Buchanan Assessment Personal Property 2011  
 Petitioner Exhibit 15: Bruce Buchanan Assessment Personal Property 2012  
 Petitioner Exhibit 16: Bruce Buchanan Assessment Personal Property 2013  
 Petitioner Exhibit 17: Disputed Items on Schedules  
 Petitioner Exhibit 18: January 29 2015 Department of Local Government Finance (“DLGF”) Assessment of Personal Property FAQs  
 Petitioner Exhibit 19: 50 IAC 4.2-4-1  
 Petitioner Exhibit 20: 50 IAC 4.2-4-2  
 Petitioner Exhibit 21: 50 IAC 4.2-4-3  
 Petitioner Exhibit 22: 50 IAC 4.2-4-4

6. The Assessor submitted the following exhibits:

Respondent Exhibit 1: May 6, 2016 memorandum from Barry Wood, assessment division director for the DLGF, titled “Personal Property Clarification”  
 Respondent Exhibit 2: IRS Publication 225  
 Respondent Exhibit 3: 50 IAC 4.2  
 Respondent Exhibit 5: Presentation titled “Personal Property Auditing: Indiana”  
 Respondent Exhibit 6: October 19, 2015 email from Barry Wood, DLGF, to John Shelton  
 Respondent Exhibit 7: February 7, 2014 letter from Balensiefer to Buchanan with attachments (19 pages)  
 Respondent Exhibit 8: Miscellaneous documents received from Buchanan (52 pages)

7. The record also includes the following: (1) all motions, briefs, and documents filed in these appeals, and (2) all orders and notices issued by the Board or our ALJ.

8. The business personal property in question is identified by parcel number 04-110-10017-00 and is located at 4511 S. 200 E., Oak Grove Township, in Fowler.

9. The PTABOA determined the following values:

<b>Year</b>	<b>Value</b>
2011	\$731,840
2012	\$724,770
2013	\$598,410

10. On his Form 131 petitions Buchanan listed the following assessments and requested values:

<b>Year</b>	<b>Assessment</b>	<b>Requested Value</b>
2011	\$1,692,533	\$1,137,191
2012	\$1,596,523	\$1,117,547
2013	\$1,247,325	\$1,098,593

Buchanan did not explain why he identified assessments that were so much higher than what the Assessor and PTABOA determined. At the hearing, Buchanan's accountant, Russell Leigh, did not use those same numbers to describe the existing assessments. He instead used numbers that were much closer to, but still different from, the assessments listed on the Form 113/PP notices and PTABOA determinations. Through Leigh, Buchanan then requested downward adjustments to those still incorrectly identified assessments to reach the following values:

<b>Year</b>	<b>Value</b>
2011	\$504,787
2012	\$514,063
2013	\$500,492

### **OBJECTIONS**

11. The Assessor objected to all Buchanan's exhibits on grounds that he failed to provide them to her at least five business days before the hearing. Buchanan's counsel responded that he mailed the exhibits to the Assessor on June 16, 2016—exactly five business days before the hearing. The ALJ took the objection under advisement.

12. Our administrative rules require parties to exchange copies of documentary evidence at least five business days before a hearing. 52 IAC 2-7-1(b)(1). If a party chooses to exchange his exhibits by first class mail, however, he must deposit them in the mail three days before the deadline. 52 IAC 2-7-1(c). Thus, Buchanan's deadline for mailing his exhibits to the Assessor was June 13, 2016.
13. Although Buchanan did not strictly comply with that deadline, his exhibits mostly consist of documents to which the Assessor had access well in advance of the hearing. And at least five of the exhibits were merely copies of DLGF regulations, which are not evidentiary. In any case, the Assessor did not explain how admitting the exhibits would prejudice her. Indeed, she appeared to interpose her objection mainly as a way to get Buchanan to agree not to object to her own exhibits on the same ground.<sup>2</sup> Under those circumstances, we overrule the Assessor's objection.

#### FINDINGS OF FACT

14. Buchanan prepared his own business tangible personal property returns for 2011-2013. Buchanan does not dispute that he made mistakes on those returns, including underreporting both the cost and assessed value of his property for each year. *Buchanan testimony, Leigh testimony; Pet'r Exs. 1-3.*
15. For 2011 and 2012, Buchanan offered exhibits that purport to be his complete return package for each year. Each exhibit includes a Form 104 Business Tangible Personal Property Return ("Form 104") and Form 102 Farmer's Tangible Personal Property Assessment Return ("Form 102"). The Form 104 returns report the total true tax value ("TTV") and assessment, while the Form 102 returns show how Buchanan arrived at that total by segregating the costs of his property based on acquisition date and depreciating those costs by the applicable percentages within Pool 2 (the pool for property with a five-

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<sup>2</sup> Unlike Buchanan, the Assessor did not even attempt to exchange her exhibits before the hearing. Although Buchanan initially objected to the Assessor's exhibits based on her failure to exchange them, he later withdrew his objection. He did object to Respondent's exhibit 4 on separate grounds, but the Assessor withdrew that exhibit.

to-eight-year life). For 2013, Buchanan offered his Form 104 return without an accompanying Form 102 return. He also offered a Form 104 return for personal property in Grant Township under parcel # 041061000900. He did not explain why he offered the Grant Township return. *Pet'r Exs. 1-3.*

16. The 2011 and 2012 return packages report the following costs and assessments:

**2011 Return**

Line	Acquisition Date	Total Cost	TTV
15	03/02/10 to 03/01/11	[REDACTED]	[REDACTED]
18	03/02/07 to 03/01/08	[REDACTED]	[REDACTED]
21	Prior to 03/02/05	[REDACTED]	[REDACTED]
<b>Total</b>		[REDACTED]	[REDACTED]

**2012 Return**

Line	Acquisition Date	Total Cost	TTV
16	03/02/10 to 3/01/11	[REDACTED]	[REDACTED]
19	03/02/07 to 03/01/08	[REDACTED]	[REDACTED]
21	Prior to 03/02/06	[REDACTED]	[REDACTED]
<b>Total</b>		[REDACTED]	[REDACTED]

The 2013 Form 104 return reported a total assessment of \$427,763. *Pet'r Exs. 1-3.*

17. The Assessor hired John Shelton, a Level II certified assessor/appraiser who has performed over 3,000 personal property tax audits, to audit Buchanan's returns. Shelton determined that Buchanan underreported his personal property's cost for all three years because he did not use actual acquisition costs. Shelton prepared an audit report<sup>3</sup> that apparently reflected all the equipment he believed should have been assessed for each

<sup>3</sup> The parties did not introduce a document that purports to be a formal audit report. We use that term to refer to Respondent's Exhibit 7, which consists of a letter from the Assessor to Buchanan describing the results of Shelton's audit together with various documents Shelton apparently prepared in conducting that audit.

year, together with its acquisition cost. He included schedules with Buchanan's reported costs and what Shelton believed were Buchanan's actual costs. The lines in Shelton's schedules do not correspond to the lines on the returns Buchanan offered into evidence. For example, on Shelton's 2011 schedule, line 20 corresponds to equipment acquired between March 2, 2010 and March 1, 2011, while line 15 on Buchanan's actual return corresponds to property acquired between those dates.<sup>4</sup> Regardless of the discrepancies in line numbers, none of the costs that Shelton claims Buchanan reported on his 2011 and 2012 returns correspond to the costs reflected on his actual returns. *Resp't Ex. 7.*

18. Based on Shelton's audit, the Assessor issued Form 113/PP notices increasing Buchanan's assessments as follows:

<b>Year</b>	<b>Before Audit</b>	<b>Increase<sup>5</sup></b>	<b>New Assessment</b>
2011	\$312,540	\$419,300	\$731,840
2012	\$427,260	\$297,510	\$724,770
2013	\$443,760	\$154,650	\$598,410

Once again, nobody explained why Shelton's audit report and the Assessor's Form 113/PP notices describe self-reported assessments that do not match the values reflected on the Buchanan's actual returns. *Shelton testimony; Resp't Ex. 7; Pet'r Exs. 1-3.*

19. Russell Leigh, a certified public accountant with 35 years of experience, reviewed Buchanan's original returns and Shelton's audit report, and he advised Buchanan about what he believed were necessary changes to the assessments. Leigh has been doing Buchanan's taxes for 10-15 years. He prepared "Federal Asset Reports" for use in Buchanan's 2011-2013 federal income tax returns. *Leigh testimony; Pet'r Exs. 11-13.*

<sup>4</sup> Shelton's audit report also indicates that Buchanan reported costs under Pool 4, while Buchanan's actual returns report costs only under Pool 2.

<sup>5</sup> The Form 113/PP notices do not compute the increase. That computation is included in the audit report.

20. Using the Federal Asset Reports and the information from Shelton's audit report, Leigh prepared a schedule for each tax year to demonstrate what he believed was the correct assessment. Leigh organized his schedules in the same manner for all three years. Each has both a top and bottom section. There are significant factual issues with each section. We will begin with the issues posed by the top section before laying out the bottom section for each year in full.
  
21. The top section of each schedule lists the equipment referenced in Shelton's audit, its acquisition year, its cost according to Shelton's audit, its cost as shown on Buchanan's Federal Asset Report, and the pool line each item falls under on an Indiana return. Because Leigh took the line numbers from Shelton's audit report, they do not match the line numbers on Buchanan's actual returns. Similarly, Buchanan's Federal Asset Reports include equipment that does not appear on either Shelton's audit report or Leigh's schedules. Neither Shelton nor Leigh explained why he excluded that equipment. *Leigh testimony; Pet'r Exs. 1-3, 11-16.*
  
22. For each year, there were eight pieces of equipment where Leigh indicated that Buchanan's actual cost differed from the cost Shelton used in the audit. Because there was some overlap between years, it appears there were 15 separate disputed items. *See Pet'r Exs. 1-3, 14-16.*
  
23. Buchanan also offered copies of invoices and purchase orders for various pieces of equipment. Those invoices and purchase orders appear to cover 19 separate transactions. Many of them address equipment that is listed on the Federal Asset Reports but that is not included in Shelton's audit or on Leigh's schedules. Four of the disputed items on Leigh's 2013 schedule have corresponding invoices or purchase orders. Only two of the disputed items on his 2012 schedule have invoices or purchase orders, and only one disputed item on the 2011 schedule does. *Leigh testimony; Pet'r Exs. 11-16.*



24. Some of the invoices and purchase orders show that the seller gave Buchanan credit against the purchase price for equipment that he traded in. According to Leigh and Ronald Cox, another CPA who testified for Buchanan, when a farmer exchanges existing equipment for new equipment of like kind, the tax basis for the new equipment equals the net book cost (i.e. the cost minus any depreciation taken up to that point) of the traded equipment plus any cash boot paid by the buyer. Some of the invoices and purchase orders have handwritten notes showing calculations for the tax basis of the new equipment computed along those lines. *Leigh testimony; Cox testimony; Pet'r Exs. 11-13.*
25. Leigh also testified that Buchanan does not own 100% of all the equipment at issue. According to Leigh, Buchanan farms with his son, Allen, and only part of the cost of certain equipment should be taxable to Buchanan. Some of the invoices and purchase orders have handwritten calculations that appear to reflect what Leigh believes is the proper allocation of the cost between Buchanan and Allen. *Leigh testimony; Pet'r Exs. 11-13.*
26. Leigh also prepared Exhibit 17, a document captioned "Disputed Items on Schedules," which he testified includes "some" disputed items on his schedules. There are six items on the exhibit, one for 2011, two for 2012, and three for 2013. The exhibit has several columns, including columns for the cost Shelton used in his audit, the cost Leigh claims should be assigned to Buchanan, and the cost he claims should be assigned to Allen. Four of the items have costs assigned to both Buchanan and Allen. The other two show differences between the cost Shelton used and the cost Leigh claims should be assigned to Buchanan but show nothing under the column for Allen. If Leigh meant the exhibit to identify only the items where he believes the cost should be allocated between Buchanan and Allen, he did not explain why he failed to list an amount for Allen in the last two instances. If, on the other hand, Leigh meant to list all the equipment where Shelton used the wrong cost, regardless of the reason, he did not explain why his schedules identify significantly more disputed items. *Leigh testimony; Pet'r Exs. 11-17.*

27. In any case, there is nothing to show that Allen had legal title to any of the equipment on Buchanan's Federal Asset Reports. None of the invoices or purchase orders list Allen as a buyer. Some list only Buchanan, while others list Buchanan and "Buchanan Farms." Buchanan alone signed for the buyer. While Leigh believed that "some of the items were on Allen's depreciation schedule already," Buchanan did not offer Allen's personal property returns as evidence. *Leigh testimony; Pet'r Exs. 11-13.*
28. In the bottom section of his schedules, Leigh grouped the equipment from the top section into pools corresponding to their line numbers. Along each line, he included columns for the cost from Shelton's audit ("Assessment") the cost reported on Buchanan's returns ("Reported"), and the costs Leigh believes are correct ("Should Be"). Again, the "Reported" costs do not even remotely correspond to the costs on Buchanan's actual returns.<sup>6</sup> There are also columns for the variance between Buchanan's reported cost and Leigh's cost ("Variance"), and the true tax value percentage applicable to each variance ("TTV %"). The final column shows the true tax value for each line's Variance ("TTV"), which Leigh derived from multiplying the Variance by the TTV%. *Leigh testimony; Pet'r Exs. 1, 14-16.*
29. Below the TTV column, Leigh totals the true tax value of all the Variances ("Corrected Variance") and subtracts it from the amount the assessment was purportedly increased by the Assessor ("Per Assessment") to arrive at the amount by which he claims the increased assessments need to be reduced to reflect the actual true tax value of Buchanan's property ("Adjustment Needed"). *Leigh testimony; Pet'r Exs. 14-16.*

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<sup>6</sup> Because Buchanan did not offer his Form 102 return for 2013 as an exhibit, we cannot tell what costs he reported.

30. For 2011, the bottom section of Leigh's schedule reads as follows:

	Assessment	Reported	Should be	Variance	TTV %	TTV
Line 20	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	40%	[REDACTED]
Line 21	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	56%	[REDACTED]
Line 22	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	42%	[REDACTED]
Line 23	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	32%	[REDACTED]
Line 24	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	24%	[REDACTED]
Line 25	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	18%	[REDACTED]
Line 26	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	15%	[REDACTED]
				Corrected Variance		[REDACTED]
				Per Assessment		[REDACTED]
				Adjustment Needed		[REDACTED]

*Leigh testimony; Pet'r Ex. 14.*

31. Leigh listed [REDACTED] as the cost for Line 20 in the Assessment column, but Shelton actually used [REDACTED] for that line. Similarly, the Per Assessment value in Leigh's schedule should be equal to the amount the Assessor purportedly increased Buchanan's assessment following Shelton's audit, or [REDACTED]. Instead, Leigh used a value of [REDACTED] which in turn affected his calculation of the necessary adjustment. *Pet'r Ex. 14; Resp't Ex. 7.*

32. For 2012, the bottom section of Leigh's schedule reads as follows:

	Assessment	Reported	Should be	Variance	TTV %	TTV
Line 20	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	40%	[REDACTED]
Line 21	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	56%	[REDACTED]
Line 22	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	42%	[REDACTED]
Line 23	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	32%	[REDACTED]
Line 24	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	24%	[REDACTED]

Line 25	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	18%	[REDACTED]
Line 26	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	15%	[REDACTED]
					Corrected Variance	[REDACTED]
					Per Assessment	[REDACTED]
					Adjustment Needed	[REDACTED]

*Leigh testimony; Pet'r Ex. 15.*

33. Leigh listed costs of [REDACTED] and [REDACTED] respectively, for Lines 20-21 in the Assessment column. But Shelton actually used [REDACTED] and [REDACTED] for those lines. Similarly, Leigh's Per Assessment value should be equal to the amount the Assessor purportedly increased Buchanan's assessment following Shelton's audit, or [REDACTED]. Instead, Leigh used a value of [REDACTED] which in turn affected his calculation of the necessary adjustment. *Pet'r Ex. 15; Resp't Ex. 7.*

34. For 2013, the bottom section of Leigh's schedule reads as follows:

	Assessment	Reported	Should be	Variance	TTV %	TTV
Line 20	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	40%	[REDACTED]
Line 21	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	56%	[REDACTED]
Line 22	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	42%	[REDACTED]
Line 23	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	32%	[REDACTED]
Line 24	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	24%	[REDACTED]
Line 25	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	18%	[REDACTED]
Line 26	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	15%	[REDACTED]
					Corrected Variance	[REDACTED]
					Per Assessment	[REDACTED]
					Adjustment Needed	[REDACTED]

*Leigh testimony; Pet'r Ex. 16.*

35. Leigh listed costs of [REDACTED], [REDACTED], and [REDACTED], respectively, for Lines 20-22 under the Assessment column. Shelton actually used costs of [REDACTED], [REDACTED], and [REDACTED] for those lines. Similarly, Leigh's reported Per Assessment value should be equal to the amount the Assessor purportedly increased Buchanan's assessment following Shelton's audit, or [REDACTED]. Instead, Leigh used a value of [REDACTED], which in turn affected his calculation of the adjustment necessary to make the assessment reflect the property's actual true tax value. *Pet'r Ex. 16; Resp't Ex. 7.*

## CONCLUSIONS OF LAW

### A. Burden of Proof

36. Generally, a taxpayer seeking review of an assessing official's determination must make a prima facie case showing both that the current assessment is incorrect and what the correct assessment should be. The taxpayer must explain how each piece of evidence relates to its requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Ass'r*, 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.”). If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to rebut or impeach the taxpayer's evidence. *See Am. United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *see also, Meridian Towers*, 805 N.E.2d at 479.

### B. Indiana's System for Assessing Personal Property

37. Indiana's personal property tax system is a self-assessment system. Every person 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. *See* I.C. § 6-1.1-3-7; 50 IAC 4.2-2-2. With limited exceptions, the person who holds legal title to personal property is its owner for purposes Indiana's property tax statutes. I.C. § 6-1.1-1-9(b); 50 IAC 4.2-2-4(a). Where someone other than the owner actually possesses the property, an assessor has discretion over whom to tax, unless the possessor shows that the property is already being assessed and taxed in the name of the owner or that the owner is liable for

the taxes under a contract with the possessor. *State Board of Tax Comm'rs v. Jewell Grain Co.*, 556 N.E.2d 920, 922 (Ind. 1990) (superseded on other grounds as recognized in *Ind. Dep't of State Revenue v. Miller Brewing Co.*, 975 N.E.2d 800, 804 n. 5 (Ind. 2012)); *see also*, 50 IAC 4.2-2-4(b) and (c) (providing that a possessor is liable unless it files a Form 103-N (Return of Not Owned Personal Property)).

38. Cost is the starting point for determining true tax value for personal property. *See* 50 IAC 4.2-4-2. Generally, the cost of personal property is “the total amount reflected on the books and records of the taxpayer as of the assessment date,” plus direct costs and an appropriate portion of indirect costs attributable to its production or acquisition and preparation for use. *Id.* There are exceptions to that rule for, among other things, property that is fully depreciated, retired, or nominally valued. *See* 50 IAC 4.2-4-3.
39. To compute true tax value, taxpayers must first adjust the cost for any depreciable personal property to its tax basis as defined in the Internal Revenue Code (unadjusted by Sections 167 (depreciation) and 179 (expense deduction) or any credits that diminished its cost basis) if the property’s cost per books is different from its tax basis. 50 IAC 4.2-4-4. Each piece of property is then segregated into one of four pools based on its depreciable life for federal income tax purposes. 50 IAC 4.2-4-5. The adjusted cost of each year’s acquisitions falling within a given pool is then multiplied by the percentage factor corresponding with that pool’s year of acquisition from a table incorporated into the DLGF’s regulations. 50 IAC 4.2-4-7. The resulting sum is the true tax value of the personal property, which automatically reflects all adjustments for Indiana property tax purposes, except abnormal obsolescence. *Id.* With a few exceptions, the total valuation of a taxpayer’s personal property cannot be less than 30% of adjusted cost, even if applying the depreciation pools would indicate a lower value. 50 IAC 4.2-4-9.

### **C. Buchanan Failed to Make a Prima Facie Case for Changing the Assessments**

40. The parties disagree about how to properly determine the cost for equipment acquired in exchange for a trade-in of similar equipment, and they spent much of the hearing

debating that question. Buchanan argues that the tax basis for property acquired through a like-kind exchange is the same for Indiana personal property tax purposes as it is under the Internal Revenue Code—the net book value of the traded equipment plus any cash boot. The Assessor disagrees, arguing that where the taxpayer has used accelerated depreciation methods for federal income tax purposes, using the net book value of the trade in to determine the tax basis of the new equipment leads to a nominal value for the new equipment. Thus, the Assessor argues that taxpayers must report the new equipment at its insurable cost. Each side points to a different publication from the DLGF to support his or her position.

41. We need not resolve that question to decide these appeals. Assuming, without deciding, that Buchanan's interpretation is correct, he still failed to make a prima facie case. First, it is unclear how much of the equipment that Buchanan claims Shelton valued incorrectly in his audit was actually acquired through like-kind exchanges. It appears that five of the disputed items have corresponding invoices or purchase orders showing that Buchanan acquired them through trade-ins. Even where the disputed equipment was part of an exchange, however, Buchanan did not match the equipment used for the trade-in to his prior year's Federal Asset Report or show the amount of depreciation he had taken on it. At most, there are handwritten notes on some of the invoices or purchase orders indicating what the federal tax basis of the trade-in was.
  
42. In any case, not all of the disputed equipment was acquired through trades. The dispute over at least four items apparently stems from Shelton having assigned the equipment's full cost to Buchanan while Buchanan claims that part of the cost should be allocated to his son, Allen. Buchanan, however, offered little evidence to support his desired allocation. There is nothing to show that Allen had legal title to the equipment or that he possessed it on the assessment dates. None of the invoices or purchase orders even mentions Allen. While Leigh testified that he believed Allen had claimed depreciation on the equipment, Buchanan did not offer Allen's personal property returns.

43. Even if we were to assume that the costs listed on Buchanan's Federal Asset Reports (including costs based on the net book value of traded items and allocations based on his purported partial ownership) accurately reflect the proper costs of his equipment for Indiana tax purposes, Buchanan still failed to make a prima facie case for changing his assessments. Instead of walking us through properly amended returns to demonstrate the correct assessments, Leigh focused his analysis solely on correcting changes made by the Assessor.
44. There are several problems with that approach. First, it does not meet Buchanan's burden head on. He needed to show what the correct assessment should be. Had Leigh prepared a proposed return listing what he claimed were the correct costs for all Buchanan's personal property, Buchanan could have straightforwardly asked that the assessment be reduced to the amount reflected in that proposed return. Of course, he would have still needed to show that his proposed costs were correct, and we have already explained why he did not do that with regard to the equipment acquired in exchange for trade-ins or the equipment to which he allocated cost between himself and Allen. But his proposed assessment would have been clear.
45. Leigh, however, did not prepare a proposed return. He instead opted to compare the variance between Buchanan's original reported costs and the costs used by Shelton to the variance between Buchanan's original reported costs and the costs Leigh claimed were appropriate. Unfortunately, the numbers Shelton and Leigh identified as Buchanan's original reported costs do not match Buchanan's returns. They do not even match the line numbers on those returns. Buchanan did not acknowledge, must less attempt to explain, those discrepancies.
46. Second, there are discrepancies between the amounts by which Leigh claimed the Assessor increased Buchanan's assessments and the amount of the increases actually reflected in the Assessor's Form 113/PP notices. In each instance, the discrepancy



affected Leigh's calculation of the amount by which he claimed it was necessary to adjust the assessment.

47. Finally, Leigh listed several values in his "Assessment" columns that do not match the corresponding costs from Shelton's audit. It is not clear whether these errors directly affected Leigh's calculations of the required adjustments, but they are another example of the irregularities found throughout his analysis.
48. Even if we could sift through all the data provided by Buchanan and reconstruct a tax return for each year based on the costs listed in his Federal Asset Reports, it is not our role to do so. As the Indiana Supreme Court has explained, "[t]axpayers may not avoid their burden of proof by 'making a de minimis showing and then forcing the State Board to support its decisions with detailed factual findings.'" *New Castle Lodge #147, Loyal Order of Moose, Inc. v. State Board of Tax Commissioners*, 765 N.E.2d 1257, 1264 (Ind. 2002).

#### SUMMARY OF FINAL DETERMINATION

49. For all the reasons we have discussed, Buchanan failed to make a prima facie case for reducing his 2011-2013 personal property assessments. We therefore find for Assessor and order no change.

This Final Determination of the above-captioned matter is issued by the Board on the date first written above.

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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 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.