

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

**Petition #:** 43-003-03-1-7-00001; 43-019-03-1-7-00001  
**Petitioner:** Maple Leaf Farms, Inc.  
**Respondents:** Etna Township Assessor; Prairie Township Assessor (Kosciusko County)  
**Parcel #s:** 11-213001-10; 21-213001-62  
**Assessment Year:** 2003

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 timely filed a Form 102 Farmer's Tangible Personal Property Assessment Return (Form 102 return) with both the Etna and Prairie township assessors. On November 17, 2003, the Petitioner filed an amended Form 102 (Amended Return) with each township assessor. On December 3, 2003, the Prairie Township Assessor notified the Petitioner on a Form 113/PP Notice of Assessment/Change that it would not accept the Petitioner's amended Form 102 return. The Etna Township Assessor issued a similar notification on December 4, 2003.
2. The Petitioner initiated assessment appeals with the Kosciusko County Property Tax Assessment Board of Appeals (PTABOA). On or about April 27, 2004, the PTABOA issued Form 115 Notifications of Final Assessment Determination (Form 115 determinations) upholding the assessments of the Etna and Prairie Township Assessors and denying the Petitioner's exemption claims.
3. On May 26, 2004, the Petitioner initiated appeals to the Board by filing with the Kosciusko County Assessor two Form 131 Petitions to the Indiana Board of Tax Review for Review of Assessment (Form 131 petitions). The Petitioner elected to have each petition heard under the Board's procedural rules for small claims.
4. The Board issued a notice of hearing to the parties dated December 2, 2005, with regard to Petition No. 43-003-03-1-7-00001 (Parcel No. 11-213001-10). The Board, however, did not issue a notice of hearing regarding Petition No. 43-019-03-1-7-00001 (Parcel No. 21-213001-62 Prairie Township).
5. The Board held an administrative hearing on February 8, 2006, before the duly appointed Administrative Law Judge Joseph Stanford. At the hearing, the Petitioner submitted evidence addressing the claims made in both Form 131 petitions. *See Glass testimony;*

*Pet'r Ex. 1.* The Kosciusko County Assessor, Laurie Renier, testified that Julia Goon, Prairie Township Assessor, did not receive a notice of hearing. *Renier testimony.* Ms. Renier further testified that she contacted Ms. Goon the day before the scheduled hearing, and that Ms. Goon informed Ms. Renier that she could not attend the hearing, but that she had no objection to the hearing being held as scheduled. *Id.*

6. Following the hearing, the Board issued its Order Regarding Notice of Hearing ("Order"). Pursuant to the Order, the Board notified the parties that it could not issue a decision regarding Petition No. 43-019-03-1-7-00001 absent written notification from the Petitioner and the Prairie Township Assessor: (1) waiving any claims regarding the Board's failure to issue a hearing notice concerning Petition No. 43-019-03-1-7-00001; and (2) requesting that the Board issue a decision on that petition based upon the evidence presented at the February 8, 2006, hearing. *Board Ex. 4.* On or about June 12, 2006, the Board received written waivers from both the Petitioner and the Prairie Township Assessor requesting the Board to issue a decision with regard to Petition No. 43-019-03-1-7-00001 based upon the evidence submitted at the hearing on February 8, 2006. *Board Exs. 5-6.* The Board therefore addresses Petition Nos. 43-003-03-1-7-00001 and 43-019-03-1-7-00001 in its Final Determination, Findings and Conclusions.
7. Persons present and sworn in at hearing:
  - a) For Petitioner: Lynne Glass, Assistant Corporate Controller, Maple Leaf Farms
  - b) For Respondents: Gary Sponseller, Etna Township Trustee-Assessor  
Laurie Renier, Kosciusko County Assessor  
Charles A. Ker, PTABOA  
Gerald Bitner, PTABOA  
Susan Myrick, PTABOA  
Richard Shipley, PTABOA

### **Facts**

8. The subject property is classified as business tangible personal property. Specifically, the property in question consists of ducks owned by the Petitioner. The ducks are classified as inventory on the Petitioner's balance sheet, income statement, and Form 102 return. The Board shall refer to the above referenced property collectively as the "subject property" unless otherwise indicated.
9. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
10. The PTABOA determined the assessed value of the subject property to be \$98,090 in Etna Township, and \$62,420 in Prairie Township.
11. The Petitioner requests a value of \$1,180 in Etna Township, and \$750 in Prairie Township.

## Issues

12. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The Petitioner produces ducks for human consumption. The process starts with breeder ducks producing eggs. The Petitioner's processes continue through the hatching of the eggs, raising the ducks to market weight, slaughtering the ducks and processing the slaughtered ducks for sale. *Glass testimony; Pet'r Ex. 1, Taxpayer's Argument at 2.* Although those activities occur at a variety of locations, the inventory continuously remains the Petitioner's property from the beginning of the process until the final sale. *Id.*
  - b) Ind. Code § 6-1.1-10-29 provides an exemption for the inventory of a manufacturer or processor that is shipped to an out-of-state destination. *Glass argument; Pet'r Ex. 1, Taxpayer's Argument at 3.* Prior to 2003, that exemption was limited to finished goods of a producer or manufacturer that were packaged and ready for shipment in interstate commerce. *Id.* Given the limited definition of a "manufacturer or processor" set forth in Ind. Code § 6-1.1-10-29(a), the raising of crops, livestock and other produce did not qualify for an exemption, because those processes are natural and are not sufficiently controlled by the farmer. *Id.* Consequently, the typical farmer did not meet the statutory definition of a "manufacturer or processor." Farmers that engaged in activities such as drying grain and slaughtering and packaging ducks for market, however, did qualify as manufacturers or processors under the statute. Thus, processors like the Petitioner traditionally have claimed an exemption for finished inventory of processed ducks awaiting shipment out of state. *Id.*
  - c) Effective January 1, 2003, however, the Indiana General Assembly amended Ind. Code § 6-1.1-10-29 to add a new class of inventory that qualifies for an interstate commerce exemption – inventory that will be used in an operation or a continuous series of operations to alter the personal property into a new or changed state. *See Acts 2002, P.L. 192-2002, sec. 30; Ind. Code § 6-1.1-10-29(b)(2).* This exception does not require the operations that alter the property to be conducted by a "manufacturer or processor." *Glass testimony; Pet'r Ex. 1, Taxpayer's Argument at 3.* Moreover, the subject property meets the definitions of "inventory" set forth in Ind. Code § 6-1.1-3-11 and 50 IAC 4.2-1-1(h), which include references to "commodities from farms," "work in process," and "raw materials." *Id.* In fact, the headings on schedules B and B-1 of Form 102 also classify those items as "inventory." Furthermore, the Department of Local Government Finance (DLGF) recently determined that milk cows are "inventory" for property tax purposes, even though they are depreciable property for state and federal income tax purposes. *Pet'r Ex. 1, Taxpayer's Argument at 4.*
  - d) The Petitioner filed a Form 102 Farmer's Tangible Personal Property Return (Form 102 return) instead of a Form 103 Business Tangible Personal Property Return (Form

103 return). The Form 102 return includes standard “commodity values” for valuation of crop produce, livestock, and poultry, whereas the Form 103 return includes provisions for reporting such items as special tools, industrial pollution control equipment, and other items more commonly used by manufacturers, processors, distributors, retailers, and other businesses. *Glass argument; Pet’r Ex. 1, Taxpayer’s Argument at 4.* The Petitioner chose to file Form 102 returns because the commodity pricing included on that form better facilitated the Petitioner’s reporting of its duck inventory. *Glass testimony.*

- e) The Petitioner is not precluded from claiming an interstate commerce exemption simply because it claimed its exemptions on a Form 102 returns rather than on Form 103 returns. The exemption provided by Ind. Code § 6-1.1-10-29 is not limited to a specific form. *Glass argument; Pet’r Ex. 1, Taxpayer’s Argument at 6.* The Petitioner properly filed amended Form 102 returns, and in each instance, it attached a Form 103-W Return of Personal Property in Warehouses, Grain Elevators or Other Storage Places (Claimed to be Exempt from Assessment). *Pet’r Ex. 1, PPT Returns.*

13. Summary of Respondents’ contentions in support of the assessment:

- a) The Petitioner did not timely file its amended Form 102 return with the Etna Township Assessor.<sup>1</sup> *Sponseller argument.* The amended return was due on November 15, 2003, but it was not postmarked until November 17, 2003. The Etna Township Assessor received the amended return on November 18, 2003. *Sponseller testimony; Resp’t Ex. 2 at 2.*
- b) The Petitioner did not properly claim an exemption. *Sponseller argument.* An exemption pursuant to Ind. Code § 6-1.1-10-29 is available only to taxpayers that file a Form 103 return. *Id.* Neither the tax forms themselves nor the relevant statutes provide for an exemption for taxpayers filing a Form 102 return. *Id.* John Toumey and Steve Yohler, both of whom are DLGF field representatives, recommended that the Petitioner’s amended returns and claims for exemption be denied. *Sponseller testimony; Resp’t Ex. 4.*
- c) Kosciusko County did not eliminate the inventory tax for the 2003 tax year. *Renier testimony; Resp’t Ex. 5.*

### **Record**

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

- a) The Petitions.
- b) The recording of the hearing on compact disk.

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<sup>1</sup> While several of the contentions made by the Etna Township Assessor are equally applicable to the Petitioner’s claim for exemption in Prairie Township, the only evidence concerning timeliness relates solely to the amended Form 102 return filed in Etna Township.

c) Exhibits:

Petitioner Exhibit 1: Booklet containing the following tabbed sections: Form 131; Form 115; Taxpayer's Argument; POA; Form 130; PPT Returns; References,

Respondent Exhibit 1: 2003 Form 102,

Respondent Exhibit 2: 2003 amended Form 102 and 103-W,

Respondent Exhibit 3: Form 113 Notice of Assessment/Change (by an Assessing Official),

Respondent Exhibit 4: E-mail from John Toumey (Assessment Division of DLGF),

Respondent Exhibit 5: List of Counties Adopting Inventory Deduction

Respondent Exhibit 6: Petition to the Property Tax Assessment Board of Appeals for Review of Assessment (Form 130),

Respondent Exhibit 7: Continuing Education Article, dated February 2003,

Respondent Exhibit 8: Continuing Education Article – Amending Your Personal Property Tax Return, dated February 2003

Board Exhibit A: Form 131 petitions,

Board Exhibit B: Notice of Hearing,

Board Exhibit C: Sign-In Sheet.

Board Exhibit D: Order Regarding Notice of Hearing

Board Exhibit E: Letter from Lynn Glass, Assistant Corporate Controller, for Maple Leaf Farms

Board Exhibit F: Letter from Julia A. Goon, Prairie Township Assessor

d) These Findings and Conclusions.

### Analysis

15. 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 Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); see also, *Clark v. State Bd. of Tax Comm'rs*, 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 Twp. 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.
16. Before the Board addresses the merits of the Petitioner's exemption claims, the Board must address the two procedural issues raised during the hearing. Specifically, the Board must determine whether the Petitioner timely filed its amended Form 102 return with the Etna Township Assessor and whether the Petitioner's use of Form 102 returns, as opposed to Form 103 returns, is fatal to its exemption claims.

*The Petitioner timely filed its amended returns*

- a) The Etna Township Assessor contends that the Petitioner did not timely file its amended Form 102 return. *Sponseller testimony; Resp't Ex. 2 at 2.*
- b) A taxpayer may file an amended personal property tax return not more than six (6) months after the filing date for the original personal property tax return. Ind. Code § 6-1.1-3-7.5(a). The filing date for an original personal property tax return is May 15 of each year. Ind. Code § 6-1.1-1-7. An extension of time of up to 30 days may be granted. Ind. Code § 6-1.1-3-7(b).
- c) In the case at bar, the Petitioner filed its original Form 102 return on May 15, 2003. The Petitioner did not request or receive an extension of time to file its original return. Therefore, the deadline for the Petitioner to file its amended return was six months after May 15, 2003, or November 15, 2003. *See also* 50 IAC 16-3-2(b) ("If no extension was granted under IC 6-1.1-3-7, an amended return must be filed before November 16 of the year in which the personal property tax return was filed.").
- d) November 15, 2003, fell on a Saturday. Ind. Code § 6-1.1-37-10(e) provides, "[I]f any due date falls on a Saturday, Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if it is performed by the next succeeding business day that is not a Saturday, a Sunday, or one (1) of those holidays." While that provision is located in a section of the Indiana Code addressing the payment of property tax installments, the Indiana Tax Court has applied it to the filing of personal property returns. *Quaker Oats Co. v. Dep't of Local Gov't Fin.*, 782 N.E.2d 1077, 1081 (Ind. Tax Ct. 2003). Accordingly, the deadline for the Petitioner to have filed an amended return was Monday, November 17, 2003.
- e) The Petitioner deposited its amended Form 102 return for Etna Township in the United States Mail with sufficient first class postage on November 17, 2003, as evidenced by the Etna Township Assessor's testimony that the amended Form 102 return was postmarked November 17, 2003, and received on November 18, 2003. *Sponseller testimony; see also Resp't Ex. 2.* The Indiana Tax Court has held that,

absent a statute or administrative rule to the contrary, documents will be deemed timely filed with the Board or local officials if deposited in the United States mail with sufficient first class postage on or before the filing deadline. *Indiana Sugars v. State Bd. of Tax Comm'rs*, 683 N.E.2d 1383, 1385 (Ind. Tax Ct. 1997). At the times relevant to this case, there were no statutes or administrative rules specifically addressing the date upon which a personal property tax return will be deemed to have been filed with a township assessor.<sup>2</sup> Thus, the Tax Court's holding in *Indiana Sugars* is applicable to this case, and the Petitioner must be deemed to have filed its amended Form 102 return with the Etna Township Assessor on November 17, 2003.

- f) Based on the foregoing, the Petitioner timely filed its amended Form 102 return with the Etna Township Assessor.

*The Petitioner's use of Form 102 returns rather than Form 103 returns does not invalidate its exemption claims*

- g) The Respondents contend that they properly denied the Petitioner's exemption claims because the Petitioner made its claims on amended Form 102 returns rather than on Form 103 returns.
- h) Ind. Code § 6-1.1-10-29 describes the types of property owned by a manufacturer or processor that are entitled to an exemption. The statute does not prescribe specific forms to be used in claiming an exemption. Ind. Code § 6-1.1-3-9, however, requires a taxpayer make a complete disclosure of all information required by the Department of Local Government Finance (DLGF) related to the value, nature, or location of personal property owned, held, possessed, or controlled by the taxpayer on the assessment date of each year.
- i) The DLGF has promulgated an administrative rule governing the procedures for claiming interstate commerce exemptions, including the exemptions set forth in Ind. Code § 6-1-1-10-29. *See* Ind. Admin. Code tit. 50 r. 4.2-12. Thus, the DLGF requires that taxpayers annually report the value of property claimed to be exempt on their business tangible personal property returns. 50 IAC 4.2-12-1(a). More specifically, the value of inventory reported on Form 103, Schedule B, lines 6 and 10, must include any inventory claimed to be exempt, and the taxpayer must claim its exemption on line 19 of that form. 50 IAC 4.2-12-1(c). The taxpayer must support its exemption claim on an attached Form 103-W, which the DLGF has prescribed "as the form on which to claim an interstate . . . exemption." 50 IAC 4.2-12-1(d); *see also* 50 IAC 4.2-2-9(b).

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<sup>2</sup> Effective July 1, 2006, the Indiana General Assembly added a new section to the Indiana Code (Ind. Code § 6-1.1-36-1.5) providing that any return that is required to be filed by a specific date under Ind. Code § 6-1.1 will be considered to have been filed by its due date if the return is deposited in the United States first class mail, and it is: properly addressed to the appropriate recipient with sufficient postage, and postmarked by the United States Postal Service as mailed on or before the due date. Acts 2006, P.L. 154-2006, Sec. 53.

- j) Thus, although 50 IAC 4.2-12-1(c) specifies that, although taxpayers are to report the value of the property claimed to be exempt on line 19 of Form 103, the operative form for claiming an exemption is Form 103-W. The Petitioner filed a Form 103-W with regard to each of its exemption claims. Moreover, when viewed together, the Petitioner's amended Form 102 returns and Form 103-Ws set forth the total value of its inventory, the amount claimed as exempt, and the statutory basis for the claimed exemption with regard to each of its claims. *Pet'r Ex. 1, PPT Returns*. The Petitioner therefore substantially complied with the administrative procedural requirements for claiming an exemption.
- k) The Respondents, however, rely on the fact that they rejected the Petitioner's claims based upon the recommendation of John Toumey, a field representative of the DLGF. In support of their position, the Respondents presented a copy of an email from Mr. Toumey to a group of assessors, including the Kosciusko County Assessor. In that e-mail, Mr. Toumey expressed his belief that Form 103-W exemptions are not properly reportable on Form 102 returns, and he recommended that the Respondents change the assessments reported on the Petitioner's amended Form 102 returns back to the value originally reported (without the claimed exemption). *Resp't Ex. 4*.
- l) Our Supreme Court has directed all courts of this State to "give great weight" to an administrative agency's interpretation of a statute when (1) the interpreting agency is charged with the duty of enforcing the statute being interpreted, and (2) the interpretation is not inconsistent with the statute itself. *See, e.g., LTV Steel Co. v. Griffin*, 730 N.E.2d 1251, 1257 (Ind. 2000); *State Bd. of Registration for Professional Engineers v. Eberenz*, 723 N.E.2d 422 (Ind. 2000); *State Bd. of Tax Comm'rs v. Two Market Square Assoc. Ltd. Partnership*, 679 N.E.2d 882 (Ind. 1997); *Indiana Dep't of State Revenue v. Bulkmatic Transport Co.*, 648 N.E.2d 1156, 1158 (Ind. 1995). The Board therefore gives weight to the DLGF's interpretation both of statutes relating to the procedures for claiming exemptions and of its own administrative rules.
- m) Mr. Toumey's e-mail, however, does not purport to interpret any specific statute or administrative rule. *Resp't Ex. 4*. In fact, Mr. Toumey's e-mail contains no citation to authority whatsoever. *Id.* Moreover, the e-mail does not purport to be an official interpretation of the DLGF. There are specific vehicles for the DLGF to issue such interpretations. *See* 50 IAC 4.2-1-5 (indicating that the DLGF may issue instructional bulletins to instruct taxing officials of their duties and provide administrative forms to be used by taxpayers). An e-mail from a field representative is not such a vehicle. Consequently, the Board gives no weight to Mr. Toumey's e-mail in deciding whether the Petitioner's use of Form 102 returns instead of Form 103 returns rendered its exemption claims invalid.
- n) Based on the foregoing, the Board finds that the Petitioner sufficiently complied with the necessary procedural requirements to set forth a claim of exemption pursuant to Ind. Code § 6-1.1-10-29.

17. Turning to the merits, the Petitioner did not provide sufficient evidence to support its exemption claims. The Board reaches this conclusion for the following reasons:

a) The Petitioner claims that it is entitled to interstate commerce exemptions under Ind. Code § 6-1.1-10-29. That statute provides, in relevant part:

(a) As used in this section, “manufacturer” or “processor” means a person that performs an operation or continuous series of operations on raw materials, goods, or other personal property to alter the raw materials, goods, or other personal property into a new or changed state or form. The operation may be performed by hand, machinery, or a chemical process directed or controlled by an individual . . . .

(b) Personal property owned by a manufacturer or processor is exempt from property taxation if the owner is able to show by adequate records that the property:

(1) is stored and remains in its original package in an in-state warehouse for the purpose of shipment, without further processing, to an out-of-state destination; or

(2) is inventory (as defined in IC 6-1.1-3-11) that will be used in an operation or a continuous series of operations to alter the personal property into a new or changed state or form and the resulting personal property will be shipped, or will be incorporated into personal property that will be shipped, to an out-of-state destination. . . .

Ind. Code § 6-1.1-10-29(a)-(b).

b) The Petitioner concedes that the diet and care given to its ducks during the growing process do not qualify as “manufacturing or processing.” *See Pet’r Ex. 1, Taxpayer Argument at 5.* Nonetheless, the Petitioner contends that its’ slaughtering of the ducks and processing them for sale for human consumption alters the ducks into a changed state or form and therefore constitutes processing. *Glass testimony; Pet’r Ex. 1, Taxpayer’s Argument at 2.* Thus, the Petitioner contends that it qualifies as a “manufacturer or processor,” within the meaning of Ind. Code § 6-1.1-10-29(a).

c) The Board agrees that the process of preparing a duck for sale as ground meat, for example, might alter the state or form of the duck sufficiently to qualify as manufacturing or processing within the meaning of Ind. Code § 6-1.1-10-29(a). The Petitioner, however, presented little evidence regarding the extent of its processes other than Glass’ testimony that the Petitioner slaughters the ducks and processes them for human consumption. *Glass testimony; see also Pet’r Ex.1, Taxpayer’s argument at 2.* It is by no means a foregone conclusion that the mere act of slaughtering a duck and selling it for human consumption necessarily alters the form or state of the duck sufficiently to qualify as processing or manufacturing. The Board need not decide that question, however, because the Petitioner’s claims fail on

grounds independent of the question of whether it qualifies as a manufacturer or processor

- d) The Petitioner bases its claims on its characterization of the subject property as inventory that will be used in an operation or a continuous series of operations to alter the property into a new or changed state or form. In order to establish its entitlement to an exemption on those grounds, the Petitioner must first prove that the subject property qualifies as “inventory,” as that term is defined in Ind. Code § 6-1.1-3-11. With the exception of that portion of the property comprised of ducks awaiting slaughter and processing at the Petitioner’s plant in Milford, however, the subject property does not meet the statutory definition of “inventory.
- e) Ind. Code § 6-1.1-3-11 provides:

For purposes of this section, "inventory" means:

- (1) materials held for processing or for use in production;
- (2) finished or partially finished goods of a manufacturer or processor; and
- (3) property held for sale in the ordinary course of trade or business.

Ind. Code 6-1.1-3-11(a). The Petitioner does not specify under which of the three subsections it contends that the subject property qualifies as inventory. The Petitioner’s own evidence, however, clearly eliminates subsections (2) and (3). As to the former, the property taxation statutes do not define term “finished or partially finished goods.” That term, however, cannot reasonably be read to include ducks to which the Petitioner has not yet begun to apply the processes that the Petitioner contends alter the state or form of those ducks. As to the latter, the Petitioner does not claim to sell its ducks prior to processing; thus, the ducks cannot be considered to be held for sale in the ordinary course of business.<sup>3</sup>

- f) Subsection (1) admittedly presents a closer question. Nonetheless, while the Petitioner submitted evidence that it intends to process many of its ducks for sale for human consumption at some point in time,<sup>4</sup> the ducks not awaiting slaughter at the Petitioner’s plant in Milford are sufficiently removed from that eventuality such that they cannot reasonably be viewed as being “held for processing.” In fact, there is no guarantee that any individual duck will actually be slaughtered and processed for

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<sup>3</sup> This reasoning is equally applicable to the Petitioner’s reliance on the fact that 50 IAC 4.2-1-1(m)(1) and 50 IAC 4.2-5-1 both include “commodities from farms” within the definition of “inventory.” The reference to farm commodities, however, is provided by the DLGF as an example of inventory comprised of “goods awaiting sale.” 50 IAC 4.2-1-1(m); 50 IAC 4.2-5-1(b)(1)(C). Even if the Petitioner’s pre-processed ducks may be considered farm commodities, they are not “awaiting sale.”

<sup>4</sup> Once again, the Petitioner presented little evidence as to its operations or the composition of the subject property. While the Board can infer from the Petitioner’s evidence that the Petitioner intends to process a significant portion of its ducks for human consumption, it cannot infer that the Petitioner intends to do so with all of its ducks. This is particularly true in light of the fact that the Petitioner indicated that its operations start with “breeder ducks” producing fertile eggs. *Pet’r Ex. 1, Taxpayer Argument at 2*. The Petitioner did not provide any detail regarding how it uses those particular ducks. Nonetheless, the most reasonable inference to be drawn from the Petitioner’s characterization of those ducks as “breeders,” is that they are not slaughtered and processed for sale.

human consumption. Presumably, ducks die, become infected or otherwise become unfit for slaughter and processing for human consumption at various points during the growing process. Absent clearer direction from the legislature, the Board will not interpret the definition of “inventory” in such a broad manner as urged by the Petitioner. *See e.g., Monarch Steel Co. v. State Bd. of Tax Comm’rs*, 611 N.E.2d 708, 713 (Ind. Tax. Ct. 1993). The same reasoning applies with regard to the Petitioner’s claims that the ducks constitute “raw materials” or “work in process” under the definition of inventory set forth in 50 IAC 4.2-1-1(m)(1) and 50 IAC 4.2-5-1.

- g) Consequently, even if the Petitioner qualifies as a “manufacturer or processor,” only the ducks held for slaughter and processing at the Petitioner’s Milford plant would be entitled to an exemption under Ind. Code § 6-1.1-10-29(b)(2). The Petitioner, however, did not provide any evidence from which to quantify the value of those ducks as opposed to the remainder of the ducks, eggs and other property it seeks to exempt. Thus, the Petitioner failed to prove its entitlement to an exemption.
- h) Based on the foregoing, the Petitioner failed to establish a prima facie case of error in assessment.

### **Conclusion**

- 18. The Petitioner failed to make a prima facie case of error. The Board finds in favor of the Respondents.

### **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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Commissioner,  
Indiana Board of Tax Review

## 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>>.