

## RECENT INDIANA TAX COURT DECISIONS ON APPRAISALS

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In two recent cases handed down by the Indiana Tax Court, Judge Fisher held that an estate was not required to obtain an appraisal by a licensed appraiser and the appraisal was not required to be attached to the Indiana Inheritance Tax Return.

Judge Fisher found in both cases that the Indiana Department of Revenue had previously misconstrued Indiana Code Section 6-4.1-4-1 when the Department required the Estate to attach an appraisal by a licensed appraiser to the Indiana Inheritance tax return.

In Indiana Department of State Revenue, Inheritance Tax Division v. Estate of Doris K. Parker, 2010 Ind. Tax LEXIS 7, 2010 WL 1078715 (Ind. Tax 2010), the Estate filed an inheritance tax return and reported the fair market value of Parker's life estate and the value of the family farm. The estate did not attach a formal appraisal to the inheritance tax return. Judge Fisher found that no formal appraisal was required to be attached to the inheritance tax return. Judge Fisher stated, "If the legislature had intended for the Estate to substantiate its own opinion as to the fair market value of its assets by attaching an appraisal to the return, it would have stated as much." Judge Fisher ultimately found that the inheritance tax was not computed properly so the case was remanded to the probate court for further proceedings.

In Indiana Department of State Revenue, Inheritance Tax Division v. The Estate of Marjean M. Ogle, 2010 Ind. Tax LEXIS 8, 2010 WL 1063954 (Ind. Tax 2010), the estate had obtained an appraisal prepared by a local real estate broker. The Department of Revenue challenged the determination of value and claimed that the market analysis was deficient and only an appraisal by a licensed appraiser could be used to properly determine value. Judge Fisher disagreed with the Department that an appraisal by a licensed appraiser was required to be attached to the return.

These two cases make it clear that an appraisal by a licensed appraiser is not required to comply with the Indiana Inheritance Tax regulations; however, as stated by the court, if the Estate obtains an appraisal, you must attach it to the return. Unless the property is sold during the period of administration, an appraisal, albeit perhaps not by a Indiana licensed appraiser, is still going to be the best way for the decedent's beneficiaries to substantiate any tax basis adjustments that occur at the decedent's death.