DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0481 AGI

ADJUSTED GROSS INCOME TAX
FOR TAX PERIODS: 1998-1999

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Issue

Adjusted Gross Income Tax: Imposition

Authority: IC 6-3-2-1, 26 U.S.C.A. Sec. 61 (a), Thomas v. Indiana Department of Revenue, 675 N.E.2d 362 (Ind. Tax 1997), Snyder v. Indiana Department of Revenue, 723 N.E.2d 487 (Ind. Tax 2000).

Taxpayer protests the imposition of the adjusted gross income tax.

Statement of Facts

The Indiana Department of Revenue issued Taxpayer a refund of withheld taxes for 1998. The Indiana Department of Revenue determined that the refund was issued in error. The Indiana Department of Revenue also assessed additional taxes for tax year 1999. Further facts will be provided as necessary.

Adjusted Gross Income Tax: Imposition

Discussion

An adjusted gross income tax is imposed upon all Indiana residents. IC 6-3-2-1.Taxpayer argues that he has no Indiana Adjusted Gross Income for 1994 and therefore does not owe any tax. Taxpayer notes that the Indiana Code borrows some of its definitions from the Internal Revenue Code. For instance, "gross income" is defined at IC 6-3-1-8 as having the meaning as defined by section 61(a) of the Internal Revenue Code." Section 61 (a) that states in part:

> Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:
>
> (1) Compensation for services, including fees, commissions, fringe benefits, and similar items. . .

Taxpayer contends that since the word "wages" is not listed in Section 61, wages are not taxable income. Therefore he amended his federal return to enter "zero" on the line titled "Wages, Tips, other Compensation." He then entered his federal adjusted gross income of "zero" on his Indiana amended return. Following this erroneous logic, Taxpayer protested the assessment of additional tax, penalty and interest for 1997.

The Indiana Tax Court has disposed with arguments that wages do not constitute income. In Thomas v. Indiana Department of Revenue, 675 N.E.2d 362 (Ind. Tax 1997), the Tax Court stated:

> [e]ven assuming the validity of Thomas's legal framework, monetary payments made in exchange for labor are clearly severed from labor and received or drawn by the recipient for his separate use, benefit, or disposal.

In Snyder v. Indiana Department of Revenue,723 N.E.2d 487 (Ind. Tax 2000), the Court specifically states at page 491 that "wages are income for purposes of Indiana's adjusted gross income tax." Taxpayer's income is subject to the Indiana Adjusted Gross Income Tax.

Finding

Taxpayer's protest is denied.

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