DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0748 GI
GROSS INCOME TAX
FOR TAX PERIODS: 1994-1997

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ISSUES

1. Gross Income Tax-Not-For-Profit Organizations

Authority: IC 6-2.1-3-20, IC 6-2.1-2-5(9), Information Bulletin #17, dated June, 1992.

Taxpayer protests the assessment of gross income tax on its raffles and bingo games.

2. Gross Income Tax-Computation of Tax

Authority: IC 6-2.1-2-5

Taxpayer protests the Indiana Department of Revenue's computation of tax due.

3. Tax Administration-Negligence Penalty

Authority: IC 6-8.1-10-2.1(a) & (d)

Taxpayer protests the imposition of the negligence penalty.

Statement Of Facts

Taxpayer is a not-for-profit corporation that raises funds through charitable gaming activities. Taxpayer was assessed additional tax and protested. A hearing was held. Additional facts will be provided as necessary.

1. Gross Income Tax-Not For Profit Organization

Discussion

Taxpayer is a not-for-profit corporation which runs a social club providing a community center and park in a small Indiana town. Taxpayer raises money for its activities through bingo games and raffles. Taxpayer contends that the income raised from the bingo games and raffles is exempt from gross income tax due to the corporation's not-for-profit status.

IC 6-2.1-2-5 (9) imposes gross income tax at the higher rate on "any activity which is not described in section 4 of this chapter, including the provision of services of any character…." Indiana Department of Revenue Information bulletin Number 17, dated June, 1992 specifically lists bingo games and raffles as services subject to gross income tax at the higher rate.

Taxpayer contends that it qualifies for exemption from the gross income tax under the provisions of IC 6-2.1-3-20 which provides exemption for not-for-profit corporations that are "organized and operated exclusively for religious, charitable, scientific, literary,

Taxpayer's Articles of Incorporation indicate that Taxpayer's organization has members. In 1972 Taxpayer registered with the Indiana Department of Revenue as a social club and has consistently filed partially exempt income tax returns since that time. It has not received 501(c)(3) or 501(c)(8) status from the federal government. Therefore, it is a social club and does not qualify for this exemption.

Finding

Taxpayer's protest to the imposition of gross income taxes on its raffle and bingo income is denied.

2. Gross Income Tax-Computation

Discussion

After an explanation as to how the Indiana Department of Revenue computed Taxpayer's tax liability, Taxpayer withdrew its protest to the computation of the taxes.

Finding

Taxpayer withdrew its protest.

3. Tax Administration-Negligence Penalty

Discussion

Taxpayer's final point of protest concerns the imposition of the negligence penalty that was imposed pursuant to IC. 6-8.1-10-2.1(a) which states as follows:

> If a person fails to . . . pay the full amount of tax shown on his return on or before the due date for the return or payment, incurs, upon examination by the department, a deficiency which is due to negligence,. . . the person is subject to a penalty.

The Indiana Department of Revenue offered instructional seminars to organizations with charitable gaming operations and issued an Instructional Bulletin to aid organizations in remitting the proper amount of tax. Taxpayer did not avail itself of these aids and was therefore negligent in its failure to remit the proper amount of tax.

Finding

Taxpayer's protest to the imposition of the negligence penalty is denied.

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