

Letter of Findings Number: 04-0348
Adjusted Gross Income Tax
Tax Period 2000-2001

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ISSUES

I. Adjusted Gross Tax-Imposition

Authority: 26 U.S.C.A. § 62; IC § 6-3-2-1(a); IC § 6-3-1-3.5(a); IC § 6-8.1-5-1(b); IC § 6-8.1-5-4.

The taxpayer protested the imposition of Indiana adjusted gross income tax on unexplained deposits.

II. Adjusted Gross Income Tax-Disallowance of Expense Deductions

Authority: IC § 6-3-1-3.5;

The taxpayer protests the disallowance of claimed expense deductions.

III. Tax Administration- Ten Percent Negligence Penalty

Authority: IC § 6-8.1-10-2.1: [45 IAC 15-11-2\(b\)](#).

The taxpayer protested the imposition of the ten percent negligence penalty.

STATEMENT OF FACTS

The taxpayer does business as a furrier and operates a retail establishment. The businesses were audited by the Indiana Department of Revenue (department). The audit resulted in a best information available assessment of additional adjusted gross income tax, interest, and penalty for the 2000-2001 tax period. The taxpayer protested this assessment. A hearing was held and this Letter of Findings results.

I. Adjusted Gross Income Tax-Imposition

DISCUSSION

The taxpayer had several unexplained deposits into his checking account. The department added these deposits to the taxpayer's gross income resulting in an adjusted gross income tax assessment. The taxpayer protested the addition of these deposits to his gross income. The taxpayer claimed that the deposits were nontaxable loans from a line of credit and transfers from savings.

Indiana imposes an adjusted gross income tax on the adjusted gross income of Indiana residents. IC § 6-3-2-1(a). Indiana adjusted gross income is calculated by starting with the federal adjusted gross income and making certain modifications. IC § 6-3-1-3.5(a). The federal adjusted gross income calculation begins with the inclusion of all of the taxpayers' income. 26 U.S.C.A. § 62.

Notices of proposed assessments are prima facie evidence that the department's claim for unpaid taxes is valid. IC § 6-8.1-5-1(b). The taxpayer has the burden of proving that the department incorrectly imposed the assessment. *Id.* Taxpayers are required to keep adequate books and records so that the department can determine the proper tax owed to the state. IC § 6-8.1-5-4.

The taxpayer provided substantial and convincing documentation indicating that most of the unexplained deposits were either non taxable draws on a line of credit or non taxable transfers from savings. The transfers that were properly added to the taxpayer's gross income were receipts from customers of \$1,981.72 on 3/1/2000; \$3417.16 on 3/27/2001; \$35,000.56 on 9/17/2001; and \$36,420.02 on 11/12/2001.

FINDING

The taxpayer's protest is denied as to the specifically listed items of unexplained deposits. The remainder of the taxpayer's protest is sustained.

II. Adjusted Gross Income - Disallowance of Expense Deductions

DISCUSSION

The Indiana adjusted gross income tax is calculated by starting with the taxpayer's federal adjusted gross income and making certain adjustments. IC § 6-3-1-3.5. Since the Indiana adjusted gross income tax is calculated by starting with the federal adjusted gross income, federal deductions are a part of the initial computation.

At the time of the audit, the taxpayer substantiated his expense deductions by presenting his federal adjusted gross income tax return with its listing of expenses taken against his business income. The taxpayer did not present backup documentation. The department disallowed some of these deductions for Indiana adjusted gross income tax purposes.

At the hearing, the taxpayer produced copies of checks to substantiate his claim as to the deductibility of certain amounts. The taxpayer marked the checks that he felt represented expenses that should be deducted from the business gross income to determine the correct amount of Indiana adjusted gross income. The taxpayer only used one checking account for his business and personal expenses.

The checks are certainly evidence that the taxpayer made payments to other concerns. There is, however, no backup documentation such as invoices or receipts to verify that the payments were made for properly

deductible business expenses. Further, it appears that the taxpayer considered all of the automobile, housing, insurance, and professional fees as deductible business expenditures. The taxpayer lived somewhere and had personal transportation, housing, insurance, and professional expenses. Since there is no way to segregate the non-deductible personal expenses from the deductible business expenses, the taxpayer did not sustain his burden of proving that the department's assessment was inaccurate.

FINDING

The taxpayer's protest is denied.

III. Tax Administration- Ten Percent Negligence Penalty

DISCUSSION

The taxpayer protested the imposition of the ten percent negligence penalty pursuant to IC § 6-8.1-10-2.1. Indiana Regulation [45 IAC 15-11-2](#)(b) clarifies the standard for the imposition of the negligence penalty as follows:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

During the period of the audit, the taxpayer ignored the law and the department's instructions for the payment of adjusted gross income tax and maintenance of adequate records. The taxpayer's inattention to these duties resulted in the tax liability. These breaches of the taxpayer's duty constituted negligence.

FINDING

The taxpayer's protest is denied.

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