

Letter of Findings Number: 05-0014
Income Tax
For Tax Year 2001

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ISSUE

I. Income Tax—Individual

Authority: [IC 6-3-2-1](#); [IC 6-8.1-3-7](#); [IC 6-8.1-5-1](#); [IC 6-8.1-10-3](#); [45 IAC 15-11-3](#)

Taxpayer protests the imposition of individual income tax.

STATEMENT OF FACTS

Taxpayer is an individual. After receiving notice from the Federal government of a discrepancy between the amount of income reported to the Federal government and the amount of income reported to the Indiana Department of Revenue ("Department"), the Department issued a proposed assessment for Indiana income tax based on the difference. Taxpayer protests the assessment on several grounds. Further facts will be supplied as required.

I. Income Tax—Individual

DISCUSSION

Taxpayer protests the imposition of Indiana income tax for the tax year 2001. The Department received information from the Federal government that taxpayer had taxable income for 2001. The Indiana income tax is established in [IC 6-3-2-1](#), which states in relevant part:

(a) Each taxable year, a tax at the rate of three and four-tenths percent (3.4 [percent]) of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

The Department issued a proposed assessment on the income reported by the Federal government.

Taxpayer offers several reasons for his protest. First, taxpayer observes that the notice he received states that a review of his return for 2001 determined that he owed the income tax in question. Taxpayer protests that he did not file a return for 2001 and therefore there was never a return to review. The Department refers to [IC 6-8.1-10-3\(a\)](#), which explains that the Department may prepare a return for a taxpayer who fails to file a return, based on the best information available. The Department prepared return is prima facie correct. Since taxpayer did not file a return, and since the Department received information explaining that taxpayer should have filed a return, the Department used the best information available to prepare a return. As explained in [45 IAC 15-11-3](#), a "return" prepared by the Department shall consist of an actual prescribed return, an audit report or a notice of tax due. In this case, the "return" consisted of a notice of tax due.

Next, taxpayer protests that he did not receive enough income to require filing a return with Indiana. The Department refers to [IC 6-8.1-3-7\(a\)](#), which explains that the Department may enter into reciprocal agreements with the taxing officials of the United States government or with the taxing officials of other state governments to furnish and receive information relevant to the administration and enforcement of the listed taxes. The Department has such an agreement with the taxing officials of the United States government and received information establishing that taxpayer did receive enough income to require filing an Indiana return. The Department notes that under [IC 6-8.1-5-1\(b\)](#), the burden of proving an assessment wrong rests with the person against whom the assessment is made.

Next, taxpayer states that he is currently a member of a class action lawsuit in federal court to establish that the class does not owe federal income tax. Indiana is not a party to that lawsuit. Since the taxes at issue in this protest are state taxes rather than federal taxes and since Indiana is not a party to the referenced lawsuit, that lawsuit is not relevant to this protest.

Taxpayer also requested copies of his personal tax records on file with the Department. The Department required and requested verification information from taxpayer to ensure confidentiality. Taxpayer did not provide the requested verification and the Department did not provide copies of the records.

In conclusion, the Department received information under [IC 6-8.1-3-7\(a\)](#) which established that, under [IC 6-3-2-1](#), taxpayer should have filed an Indiana income tax return for 2001. Under [IC 6-8.1-10-3\(a\)](#), the Department prepared a return for taxpayer. Under [45 IAC 15-11-3](#), that return took the form of a notice of tax due. The class action lawsuit referred to by taxpayer is not relevant to this protest. Taxpayer has not met the burden of proving the proposed assessment wrong, as required by [IC 6-8.1-5-1\(b\)](#).

FINDING

Taxpayer' protest is denied.

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