

**Letter of Findings Number: 06-0309****Income Tax****For the Tax Period 2002**

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**ISSUES****I. Adjusted Gross Income Tax – State Tax Addback**

**Authority:** IC § 6-8.1-5-1(a); IC § 6-3-1-3.5(b); IC § 6-3-2-1(b); IC § 6-3-1-3.5(b)(3);

The Taxpayer protests the state tax addback.

**II. Adjusted Gross Income Tax- Nonbusiness Income and Expenses**

**Authority:** IC § 6-3-2-2(a); [45 IAC 3.1-1-153\(c\)](#).

The Taxpayer protests the exclusion of certain nonbusiness expenses.

**STATEMENT OF FACTS**

The Taxpayer corporation is a holding company that holds interests in several pass-through entities. The group of businesses provides a variety of services relating to environmental wastes. After an audit for the tax year 2002, the Indiana Department of Revenue (Department) assessed additional adjusted gross income tax, interest, and penalty. The Taxpayer protested the assessments resulting from the adjustments related to the state tax addback and the exclusion of certain nonbusiness expenses from the Taxpayer's Indiana Adjusted Gross Income Tax calculation. A hearing was held and this Letter of Findings results.

**I. Adjusted Gross Income Tax – State Tax Addback****DISCUSSION**

All tax assessments are presumed to be valid. IC § 6-8.1-5-1(b). The Taxpayer bears the burden of proving that any assessment is incorrect. *Id.*

Indiana imposes a tax on the Indiana adjusted gross income of corporations. IC § 6-3-2-1(b). A corporation's adjusted gross income computation begins with the corporation's federal adjusted gross income. Certain adjustments to the federal adjusted gross income must be made to calculate the corporation's Indiana adjusted gross income. IC § 6-3-1-3.5(b). One of the statutory adjustments concerns the treatment of state taxes paid. For federal purposes, corporations may deduct state taxes paid from their gross income in determining their federal adjusted gross income. Indiana does not allow this deduction. For the Indiana calculation, corporations must add back the state taxes that they deducted from their gross income to determine their federal adjusted gross income. IC § 6-3-1-3.5(b)(3).

During the audit for 2002, the Taxpayer discovered that it had accidentally added back the 2001 state tax figure of (\$32,895) on its 2002 tax return. To correct this error, the Department made a \$27,397 adjustment to the Taxpayer's adjusted gross income. The Taxpayer protested this adjustment. The Taxpayer contended that the Department added back an incorrect amount.

The correct amount of state taxes to be added back for 2002 was (\$5,498). The Department added back the difference of the two amounts or \$27,397. Thereby the Department reached the correct amount of state tax addback – (\$5,498). The Taxpayer did not supply sufficient documentation to prove that the Department erred in its methodology.

The Taxpayer failed to sustain its burden of proving that the Department calculated the state tax addback incorrectly.

**FINDING**

The Taxpayer's protest is denied.

**II. Adjusted Gross Income Tax – Nonbusiness Income and Expenses****DISCUSSION**

The Taxpayer organized a limited liability company to invest in a partnership doing business in California. The California partnership produced losses which the Taxpayer wanted to include in limited liability company's tax calculation. The losses would then flow through to the Taxpayer's tax return. The Department excluded these losses as nonbusiness income allocable to California. The Taxpayer protested the exclusion.

The limited liability company was unitary with the Taxpayer. As such, any separate income or expenses –nonbusiness or business– of the limited liability would be reflected in the Taxpayer's tax return. [45 IAC 3.1-1-153\(c\)](#). The Taxpayer and the Department agreed that the California partnership was nonunitary with the Taxpayer. As such, any nonbusiness income and expenses would be allocated to California and not reflected in the Taxpayer's tax return. IC § 6-3-2-2(a).

All of the nonbusiness expenses on the limited liability company's return were attributable to the activities of the California partnership. The losses were passed through from the California partnership's tax return to the limited liability corporation's tax return. As nonbusiness expenses, the losses were allocated to the state where

they were incurred, California. The limited liability company did not have any losses generated by expenses in Indiana. Therefore, it could not report any losses resulting from expenses on its Indiana return.

**FINDING**

The Taxpayer's protest is denied.

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