

**Letter of Findings Number: 07-0110
Adjusted Gross Income Tax
For the Tax Year 2003**

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ISSUE

I. Adjusted Gross Income Tax – Imposition.

Authority: 26 U.S.C. 1366; 26 U.S.C.S. § 179 (a); IC § 6-8.1-5-1(b).

The Taxpayer protests denial of a business deduction for a vehicle.

STATEMENT OF FACTS

The Taxpayer is an individual who is the primary shareholder and chief operating officer of a sub-chapter S corporation that provides plumbing, heating, and air conditioning services. The Indiana Department of Revenue (Department) conducted an investigation of the Taxpayer's adjusted gross income for the year 2003. Since the Taxpayer's income included a distribution from the sub-chapter S corporation, the Department reviewed the information filing of the sub-chapter S Corporation. In the Investigation Report, the Department denied the corporation's depreciation deduction for a van. The Department's denial of the deduction increased the taxable distribution to the Taxpayer. Therefore, the Department assessed additional adjusted gross income tax, interest, and penalty. The Taxpayer protested the assessment. A hearing was held and this Letter of Findings results.

I. Adjusted Gross Income Tax – Imposition.

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.*

Income from a sub-chapter S corporation flows through to the individual shareholder's personal income for federal tax purposes. 26 U.S.C. 1366. The Taxpayer's share of corporation's distributive income is also subject to Indiana Adjusted Gross Income Tax. To determine the corporation's distribution to the shareholder, the corporation's income and deductions must be examined. In this case, the Department found no problem with the income reported by the corporation. However, the Department disallowed the deduction for the corporation's payment of the expenses of a particular van. The Taxpayer owned the van. The corporation paid the expenses such as gas and insurance of the van and took a business deduction for the amount of those expenses. The Taxpayer contended that the corporation took the deduction properly because the van was only used for corporate business.

The issue is whether or not the corporation was entitled to deduct the expenses of operating the Taxpayer's privately owned van from the corporate income in determining the amount of the money to be distributed to the Taxpayer.

In certain cases, payments of expenses of a privately owned vehicle qualify to be deducted from a corporation's business income for tax purposes. To be eligible for a business deduction, the privately owned vehicle must be used for business purposes. 26 U.S.C.S. § 179 (a). In this case, the Taxpayer owned the van privately. The Taxpayer stated that the van was originally used by his wife. After the Taxpayer purchased another car for his wife, the Taxpayer contended that the van was only used for corporate purposes. He did not, however, transfer the title of the van to the corporation. Nor could the Taxpayer produce any documentation, such as a log of the car's usage, to prove that the van was only used for corporate business.

The Taxpayer did not sustain his burden of proving that the van qualified as used for corporate business. Therefore, the expenses paid for the van did not qualify as eligible to be deducted from the sub-chapter S corporation's income in the determination of the income to be distributed to the Taxpayer.

FINDING

The Taxpayer's protest is respectfully denied.

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