

**Supplemental Letter of Findings Numbers: 08-0387, 08-0397**  
**Corporate Income Tax and Individual Income Tax**  
**For the Years 2004, 2005, and 2006**

**NOTICE:** Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Individual Income Tax – Imposition.**

**Authority:** IC § 6-8.1-5-1; IC § 6-8.1-5-4.

Taxpayer protests the assessment of individual income tax.

**STATEMENT OF FACTS**

Taxpayer is the sole shareholder of an S Corporation ("Corporation"). The Department audited Corporation and issued adjustments based on the best information available. As a result of the adjustments to Corporation, Taxpayer was assessed additional individual income tax. Taxpayer protested the adjustments against Corporation and the assessment against himself.

Taxpayer originally protested the assessments and was issued a letter of findings partially denying his protest. Taxpayer requested a rehearing, which the Department granted. Additional facts will be supplied as necessary.

**I. Individual Income Tax – Imposition**

**DISCUSSION**

Taxpayer protests the imposition of individual income tax. Under IC § 6-8.1-5-1(c), a proposed assessment of tax is presumed to be correct. The burden of demonstrating that the assessment is incorrect rests with the person against whom the proposed assessment has been issued. Id.

With respect to 2004, Taxpayer protests that he only owned Corporation for the last two months of the year. The Department requested that Taxpayer provide evidence detailing the ownership transfer of Corporation. Taxpayer provided information that substantiated that he purchased the corporation's assets on November 10, 2004. Based on the evidence provided, Taxpayer substantiated that his 2004 income as reported was in fact the adjusted gross income reported for federal purposes.

With respect to 2005 and 2006, Taxpayer provided a handwritten "checks disbursed summary" for Corporation's transactions occurring that year. IC § 6-8.1-5-4(a) requires that a taxpayer maintain:

books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The Records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

The "checks disbursed summary" does not meet the standard of recordkeeping (receipts, invoices, third-party statements, cash register tapes) that is expected of taxpayers generally under IC § 6-8.1-5-4. However, Taxpayer supplied information that corroborated the "check disbursed summary" and established that the expenses claimed by Taxpayer in fact were incurred. Thus, Taxpayer has provided sufficient evidence to conclude that his adjusted gross income reported for state purposes was in fact the adjusted gross income reported for federal purposes.

However, Taxpayer is reminded that this Supplemental Letter of Findings only reflects that Corporation's—and by extension his—income was the same as that reported for federal purposes. If Taxpayer's federal adjusted gross income is adjusted, the Department will follow those federal changes.

**FINDING**

Taxpayer's protest is sustained.

*Posted: 05/27/2009 by Legislative Services Agency*

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