

**Letter of Findings: 09-0954  
Individual Income Tax  
For the Years 1998 through 2001**

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**ISSUE**

**I. Notice of Default – Individual Income Tax.**

**Authority:** IC § 6-3-1-9; IC § 6-3-1-12; IC § 6-3-1-15; IC § 6-8.1-5-1(c).

Taxpayer argues that he is not liable for proposed assessments of Indiana income tax because he issued a "Notice of Affidavit" to the IRS.

**STATEMENT OF FACTS**

The Indiana Department of Revenue (Department) issued Taxpayer "Proposed Assessments" of individual state income tax. Taxpayer responded with a "Notice of Protest and Denial of Presentment Styled 'Notice of Deficiency' dated March 6, 2008 for Year Periods Ending December 31, 1998-2001 and Restitution Demand in Affidavit Form." The Department interpreted the Taxpayer's document as a protest and assigned the matter to a Hearing Officer. A hearing was held during which Taxpayer further explained the basis for the protest. This Letter of Findings results.

**I. Notice of Default – Individual Income Tax.**

**DISCUSSION**

Taxpayer argues that he is not subject to Indiana income tax because the proposed assessments are based on a "Commercial Presentment," to which he "Refused For Cause With Out Dishonor." Taxpayer explained that members of the Department "were required [by him] to file a counter Affidavit within 'twenty one (21) days by sworn evidence....'" According to Taxpayer, because the Department failed to respond within the twenty-one days, the "facts, statements, claims, laws and conclusions of law contained in the Notice Affidavit are true and valid...." Taxpayer concludes that because his "statements, claims, laws and conclusions of law" have been deemed correct, the proposed assessments have been rendered moot.

IC § 6-8.1-5-1(c) states in part the, "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed is wrong rests with the person against whom the proposed assessment is made." However, Taxpayer appears to treat the proposed assessment as a "contract" to which he is entitled to disavow or to require the Department to "file a counter Affidavit."

Taxpayer's position finds no support in either law or simple common sense. There is nothing in Indiana law which entitles a taxpayer to disavow tax liability simply upon notice to the Department, demand for a "counter Affidavit," and the Department's failure to issue that "counter Affidavit" within a specified time.

It is possible – and even likely – that Taxpayer sincerely believes his high-flown theories of tax liability, and the Department will not question the sincerity of Taxpayer's fervent beliefs. However, Taxpayer's interpretation of Indiana tax law is simply nothing more than a flight of fancy. Wishful thinking aside, given that Taxpayer received gross income during 1998, 1999, 2000, and 2001, is an "individual" under IC § 6-3-1-9, was a resident of Indiana during those years (IC § 6-3-1-12), and is a "taxpayer" under any rational definition of IC § 6-3-1-15, Taxpayer is subject to Indiana's individual income tax. Taxpayer's attempt to treat the assessments as a "contract" falling within the purview of commercial law standards is meritless.

**FINDING**

Taxpayer's protest is denied.

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