

Letter of Findings Number: 10-0464
Withholding Tax
For the Years 2000-2007

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ISSUE

I. Withholding Tax—Imposition.

Authority: IC § 6-8.1-5-1.

Taxpayer protests the Department's assessment of withholding tax.

STATEMENT OF FACTS

Taxpayer was a corporation doing business in Indiana. In 1999, Taxpayer merged with another corporation; as a result, Taxpayer ceased doing business in Indiana. However, Taxpayer did not close its accounts with the Indiana Department of Revenue ("Department"). In 2008, Taxpayer filed the necessary paperwork to close its withholding accounts. During 2008, another successor company to Taxpayer used Taxpayer's federal employer identification number for individual retirement account withholding tax.

During 2009 and 2010, Taxpayer received best information available assessments for withholding tax for periods from 2000 through 2007. Taxpayer protested the assessments and this Letter of Findings results.

I. Withholding Tax—Imposition.

DISCUSSION

Taxpayer protests the assessment of withholding tax for several periods.

Under IC § 6-8.1-5-1(c):

(c) If the person has a surety bond guaranteeing payment of the tax for which the proposed assessment is made, the department shall furnish a copy of the proposed assessment to the surety. 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 assessment is wrong rests with the person against whom the proposed assessment is made.

Taxpayer has provided information that it ceased doing business in Indiana in 1999. Taxpayer has further provided information demonstrating that any potential tax withholding was performed by another entity. Based on the information provided by Taxpayer, Taxpayer has proven that the proposed assessments were in error.

Taxpayer also protests the application of two refunds to the proposed assessment for the period ending January 31, 2001. Because Taxpayer's protest is sustained for that period, the Department's offsetting of refunds to that period should be reversed and the appropriate refunds granted.

FINDING

Taxpayer's protest of the assessment is sustained. Taxpayer's request for refund for payments offset to January 31, 2001, is sustained.

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