

DEPARTMENT OF STATE REVENUE

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Letter of Findings Number: 01-20100585
Individual Income Tax
For the Years 2007 and 2008

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

Authority: IC § 6-8.1-5-1.

Taxpayers protest the assessment of individual income tax.

STATEMENT OF FACTS

Taxpayers are a married couple residing in Indiana. The husband ("Husband") worked for a business ("Business"). Husband reported wages withheld on his income for 2007 and 2008; however, Business did not withhold taxes on this income. Taxpayers claimed a refund based partially on Husband's reported withholding.

The Indiana Department of Revenue ("Department") conducted an investigation of Business and Taxpayers. As a result of the Department's audit, Taxpayers were assessed tax, interest, and a one hundred percent fraud penalty for previously-claimed refunds. Taxpayers protested the assessment, the Department conducted an administrative hearing, and this Letter of Findings results.

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

Taxpayers protest the assessment of individual income tax for 2007 and 2008. Under IC § 6-8.1-5-1(c), Taxpayers bear the burden of proof for demonstrating that a proposed assessment is incorrect.

In this case, Taxpayers have an individual income tax liability. The tax claimed to be withheld on his salary by Business was not remitted to the Department. There is some dispute as to Husband's duties for payment of the withholding tax on behalf of Business; nevertheless, the tax was not remitted. Beyond Husband's assertion that he was merely an employee of Business, Taxpayers have not provided sufficient legal or factual grounds to demonstrate that the assessment was erroneous.

FINDING

Taxpayers' protest is denied.

Posted: 02/23/2011 by Legislative Services Agency

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