

**Letter of Findings Number: 01-20110211P
Individual Income Tax
For Tax Year 2010**

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ISSUE

I. Individual Income Tax—Imposition.

Authority: IC § 6-3.1-31.5-9; IC § 6-3.1-31.5-13.

Taxpayer protests the imposition of individual income tax.

STATEMENT OF FACTS

Taxpayer is an individual resident of Indiana. Taxpayer filed her 2010 Indiana individual income tax return and claimed the "Energy Savings Tax Credit" against her 2010 individual income taxes. The Indiana Department of Revenue ("Department") determined that the credit fund had been exhausted prior to Taxpayer's claim of the credit and adjusted her 2010 state income taxes to reflect that the credit was not available. Taxpayer paid the proposed assessment prior to the April 18, 2011, filing deadline regarding 2010 income taxes and the Department did not impose penalty or interest. Taxpayer protests that radio advertisements for the credit continued to air during December 2010, thereby constituting false advertisements. An administrative hearing was conducted via telephone and this Letter of Findings results. Additional time was allowed for the submission of any further supporting documentation. No such documentation was received. Therefore, this Letter of Findings was written based on the information contained in the protest file and on the Department's records. Further facts will be supplied as required.

I. Individual Income Tax—Imposition.

Taxpayer protests the Department's determination to adjust her 2010 individual Indiana income tax return. Taxpayer states that radio advertisements regarding the Energy Savings Tax Credit contributed to her decision to upgrade her residential furnace in December 2010. After filing her 2010 income tax return, the Department responded that the Energy Savings Tax Credit fund had been exhausted and that it had adjusted her return from a claimed refund of less than \$100 to an assessment of less than \$100. Taxpayer protests that adjustment on the grounds that it was unfair for radio advertisements to continue to air when the fund had already been exhausted.

The Department refers to IC § 6-3.1-31.5-9, which states:

Subject to section 12 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year equal to the lesser of the following:

- (1) Twenty percent (20 [percent]) of the amount of expenditures for energy star heating and cooling equipment incurred by the taxpayer during the taxable year.
- (2) One hundred dollars (\$100).

The total amount and availability of state funds for taxpayer claims under Section 31.5 is capped and limited by IC § 6-3.1-31.5-13:

- (a) The total amount of tax credits allowed under this chapter may not exceed one million dollars (\$1,000,000) in a state fiscal year.
- (b) A taxpayer may not be awarded a credit under this chapter for taxable years beginning after December 31, 2010.

Therefore, the Department was only permitted to allow a total of one million dollars (\$1,000,000) of the Energy Savings Tax Credit for any and all taxpayers making such a claim. In an effort to ensure public awareness of the credit, various forms of advertisements were used. These advertisements were successful and the total amount of the fund was claimed prior to Taxpayer's claim. While the Department understands Taxpayer's frustration, it remains that there are no funds left to claim. The Department respectfully denies Taxpayer's claim based upon the exhaustion of available funds for this credit for the 2010 tax year.

FINDING

Taxpayer's protest is respectfully denied.

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