

**Letter of Findings Number: 03-20120295  
Withholding Tax  
For The Tax Years 2009-10**

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**ISSUE**

**I. Withholding Tax – Imposition.**

**Authority:** IC § 6-8.1-5-1; [45 IAC 3.1-1-97](#).

Taxpayers protest the imposition of withholding tax.

**STATEMENT OF FACTS**

Taxpayer is an Indiana business filing as an S corporation. Taxpayer operates several related businesses. As the result of an audit, the Indiana Department of Revenue ("Department") determined that Taxpayer had not collected and remitted county income tax for several of its employees during the tax years 2009 and 2010. The Department issued proposed assessments for the withholding tax. Taxpayer protested the proposed assessments. An administrative hearing was conducted and this Letter of Findings results. Further facts will be supplied as required.

**I. Withholding Tax–Imposition.**

**DISCUSSION**

Taxpayer protests the imposition of withholding tax for the tax years 2009-10. Taxpayer states that it does not dispute that it had the obligation to withhold county income tax on wages which it paid to its employees. Taxpayer does protest the amount which is due. At hearing, Taxpayer stated that the Department should conduct a review of the approximately 160 employees to determine if they self-reported county withholding tax on their individual income tax returns. The Department notes that the burden of proving a proposed assessment wrong rests with the person against whom the proposed assessment is made, as provided by IC § 6-8.1-5-1(c).

The relevant regulation is [45 IAC 3.1-1-97](#), which states in relevant part:

Employers who make payments of wages subject to the Adjusted Gross Income Tax Act, and who are required to withhold Federal taxes pursuant to the Internal Revenue Code (U.S.C. Title 26), are required to withhold from employees' wages Adjusted Gross and County Adjusted Gross Income Tax.

Therefore, employers such as Taxpayer are required to withhold adjusted gross and county adjusted gross income tax from payments of wages made to its employees.

Taxpayer has provided no documentation of any kind in support of its protest. Taxpayer states that it would be burdensome for it to do the research in support of its protest and states that the Department could do the research in Taxpayer's place. The Department declines Taxpayer's offer to prove the proposed assessments wrong and reminds Taxpayer that it is Taxpayer's position to prove the proposed assessments wrong. Taxpayer has not met the burden imposed by IC§ 6-8.1-5-1(c).

**FINDING**

Taxpayer's protest is denied.

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