

Letter of Findings Number: 02-20120221
Adjusted Gross Income Tax
For Tax Years 2005-07

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ISSUE

I. Adjusted Gross Income Tax—Imposition.

Authority: IC § 6-8.1-5-1.

Taxpayer protests the imposition of adjusted gross income tax.

STATEMENT OF FACTS

Taxpayer is an out-of-state business doing business in Indiana. Taxpayer filed Indiana adjusted gross income tax ("AGIT") returns for the 2005, 2006, and 2007 tax years. Later, Taxpayer filed amended AGIT returns for those years. The Indiana Department of Revenue ("Department") conducted an audit for these years and determined that Taxpayer owed additional Indiana AGIT. The Department therefore issued proposed assessments for Indiana AGIT and interest. Taxpayer disagreed with the proposed assessments and filed a protest with the Department. An administrative hearing was conducted and this Letter of Findings results. Further facts will be supplied as required.

I. Adjusted Gross Income Tax—Imposition.

DISCUSSION

Taxpayer protests the imposition of additional Indiana AGIT for the tax years 2005, 2006, and 2007. The Department based its determination that additional AGIT was due on several grounds. Taxpayer protests one of these grounds. Specifically, Taxpayer protests that the Department erred in including two entities in its calculations of Taxpayer's Indiana AGIT. 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).

Taxpayer protests the Department's determination that the two entities in question should be included in determining Taxpayer's 2005-07 Indiana AGIT. The Department's audit report provided a short explanation of its position, but did not refer to any statute or regulation upon which it based its determination. While IC § 6-8.1-5-1(c) provides that the notice of proposed assessment is prima facie evidence that the Department's claim for the unpaid tax is valid, in the instant case the audit report only states the Department's position. There is no legal reference provided for the Department's position.

While the Department's position might be correct, Taxpayer has provided a bare rebuttal of the Department's bare statement of position. Taxpayer has therefore met the burden imposed under IC § 6-8.1-5-1(c) regarding the inclusion of the two related entities in Taxpayer's 2005-07 AGIT amended returns.

FINDING

Taxpayer's protest is sustained.

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