

Letter of Findings: 02-20120613
Corporate Income Tax
For the Years 2008, 2009, and 2010

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ISSUE

I. Calculation Error – Corporate Income Tax.

Authority: IC § 6-8.1-5-1(c); Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer argues that the Department of Revenue's audit made a calculation error in determining the amount of additional corporate income tax owed by Taxpayer.

STATEMENT OF FACTS

Taxpayer is a business which operates an Indiana quarry. Taxpayer mines and extracts stone. Taxpayer sells various stone and stone products. The Department of Revenue ("Department") conducted an audit review of Taxpayer's business records and Indiana income tax returns. The audit resulted in the assessment of additional income tax. Taxpayer disagreed with the protest and submitted a protest to that effect. An administrative hearing was conducted by phone during which Taxpayer's representatives explained the basis for the protest. This Letter of Findings results.

I. Calculation Error – Corporate Income Tax.

DISCUSSION

The Department's audit reviewed Taxpayer's income tax returns, trial balances, accounts receivable, and other work papers. The audit concluded that Taxpayer had additional income that had not been reported on the 2008, 2009, and 2010 Indiana income tax returns.

The audit found that the amount of "accounts receivable" "did not reconcile with [T]axpayer's reported gross receipts on the corresponding tax returns."

According to the audit report, "[T]axpayer was given time to address the discrepancies... [but] [T]axpayer did not provide documentation to support or substantiate any explanation of the identified discrepancies between the accounts receivable totals and the reported gross receipts." The audit concluded that the "receivable discrepancies were determined to be unreported taxable income...."

In contrast, Taxpayer's representatives complained that the 11-month audit was abruptly concluded thereby denying Taxpayer the opportunity to explain the purported discrepancies.

Taxpayer explains that the discrepancies are attributable to two misreadings of its accounts receivables. Taxpayer states that its sales accounts "includes debits for errors in billing that would have shown up as additional charges when re-billed thereby doubling up on the amount examined." Taxpayer also argues that its accounts receivables records includes amounts which were simply "pass-through" expenses and should not have been counted as income.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "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." Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012).

Taxpayer has provided additional records which were apparently unavailable, misunderstood, or misinterpreted at the time the audit review occurred. The difficulties experienced during the audit are not relevant here. What is at issue is whether Taxpayer has met its burden under IC § 6-8.1-5-1(c) of establishing that the proposed assessment is "wrong." Taxpayer has not. However, there are sufficient grounds to request that the Audit Division consider Taxpayer's arguments, review the supplementary information provided as a result of the administrative hearing and to make whatever adjustments to the assessment it deems warranted.

FINDING

Subject to an audit review of the supplemental documentation, Taxpayer's protest is sustained.

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