

DEPARTMENT OF STATE REVENUE

02-20130510.LOF

Letter of Findings Number: 02-20130510
Income Tax
For Tax Years 2010 and 2011

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded by the publication of another document in the Indiana Register.

ISSUE

I. Adjusted Gross Income Tax - Liability.

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).

Taxpayer protests the imposition of additional income tax resulting from an adjustment made because of a related sales and use tax audit.

STATEMENT OF FACTS

Taxpayer is a restaurant. The Indiana Department of Revenue ("Department") conducted an audit and issued proposed assessments of additional sales and use tax plus interest. The outcome of the sales and use tax audit resulted in the adjustment of Taxpayer's reported income, so the Department also proposed assessments of additional adjusted gross income tax plus interest. Taxpayer protests the proposed assessments of base income, sales, and use taxes. An administrative hearing was held. This Letter of Findings addresses Taxpayer's protest of the proposed assessment of additional income tax. Letter of Findings 04-20130509 will address Taxpayer's protest of the proposed assessment of additional sales and use tax. Additional facts will be supplied as necessary.

I. Adjusted Gross Income Tax - Liability.

DISCUSSION

Taxpayer protests the imposition of additional income tax as a result of adjustments made by the Department in related sales and use tax audit. All tax assessments are prima facie evidence that the Department's claim for the tax is valid, and the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012). The issue before the Department is whether Taxpayer met its burden to prove the Department's assessment is incorrect.

A related audit determined that taxpayer had additional unreported taxable sales. These unreported taxable sales result in gross receipts larger than those reported on Taxpayer's tax return. Therefore, the Department adjusted Taxpayer's income for the tax years at issue.

Taxpayer protested the proposed assessment resulting from the Department's determination that it had additional unreported taxable sales. However, pursuant to Letter of Findings 04-20130509, the Department denied Taxpayer's protest. Therefore, Taxpayer's protest of the Department's proposed assessment of additional income tax based on the resulting additional gross receipts is respectfully denied.

FINDING

Taxpayer's protest is respectfully denied.

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