DEPARTMENT OF STATE REVENUE

01-20130357.SLOF

Supplemental Letter of Findings: 01-20130357
Individual Income Tax
For the Year 2011

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Dependent Social Security Numbers - Individual Income Tax.

Authority: Ind. Const. art. 1, § 2; Ind. Const. art. 1, § 3; Ind. Const. art. 1, § 23; IC § 4-1-8-1(a); IC § 4-1-8-1(a)(1); 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 does not have authority to require him to either acquire or report on his Indiana income tax return his children's Social Security Numbers and that the previous administrative decision to the contrary was flawed.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. Taxpayer filed a 2011 individual income tax return. On that return, Taxpayer reported that four persons - designated here as his "children" - qualified as "dependents." Taxpayer declined to include Social Security Numbers for these children.

The Department of Revenue ("Department") determined that Taxpayer's children did not qualify as "dependents" because the children were not fully identified. The Department's decision resulted in the assessment of additional Indiana income tax. Taxpayer disagreed with the assessments and submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayer explained the basis for his protest. A Letter of Findings was issued July 2013. Taxpayer disagreed with the Letter of Findings and requested a rehearing. Taxpayer maintained that the decision "[did] not accurately portray these issues of the [T]axpayer [and] disregards federal law and Untied State Supreme Court rulings." The rehearing was granted and this Supplemental Letter of Findings results.

I. Dependent Social Security Numbers - Individual Income Tax.

DISCUSSION

Taxpayer argues that the Department acted outside its authority by requiring him to report the Social Security Numbers of his children. According to Taxpayer the state of Indiana does not have statutory authority to require anyone to apply for, possess, or report a Social Security Number.

Since the Department's decision denying that his children qualified as "dependents" resulted in the assessment of additional tax, it is the Taxpayer's responsibility to establish that the 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." Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

Taxpayer points out that Indiana law prohibits state agencies from requiring individuals to provide Social Security Numbers. IC § 4-1-8-1(a) states in part as follows:

> No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security Number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue. (Emphasis added).

IC § 4-1-8-1(a)(1) provides an exception to the general rule and specifically authorizes the Department to require Social Security Numbers.

However, Taxpayer argues that his children do not have Social Security Numbers and that the Department is without authority to require his children obtain them. Essentially, Taxpayer maintains that although the Department may have authority to "request" a Social Security Number, it does not have authority to "require" Social Security Numbers.

In addition, Taxpayer argues that requiring a dependant's Social Security Number violates his - or his children's - rights under the Indiana Constitution. Taxpayer cites to Ind. Const. art. 1, § 23 which states:

> The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.

Taxpayer concludes that the Department is granting to one class of citizens - those who provide Social Security Numbers on their tax returns - a benefit to those persons who do not possess or do not provide the Social Security Number.

Taxpayer cites to Ind. Const. art. 1, § 2 which states:

> All people shall be secure in the natural right to worship ALMIGHTY GOD, according to the dictates of their own conscience.

Taxpayer also cites to Ind. Const. art 1, § 3 which states:

> No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

Taxpayer maintains that his religious beliefs preclude him from obtaining, possessing, or reporting Social Security Numbers.

Taxpayer protests that the adjustments to his adjusted gross income tax return violate these provisions of the Indiana Constitution. However deeply felt Taxpayer's convictions, the administrative hearing is not the appropriate venue in which to challenge the constitutionality of the Department's exercise of a routine administrative function clearly permitted under IC § 4-1-8-1(a)(1).

FINDING

Taxpayer's protest is respectfully denied.

Posted: 07/27/2016 by Legislative Services Agency
An [html] version of this document.