

**Supplemental Letter of Findings: 01-20160249
Individual Income Tax
For the Year 2014**

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 Indiana Department of Revenue'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 This document is effective as of its date of publication and remains in effect until the date it is superseded by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual was required to include his dependents' Social Security numbers on his 2014 Indiana income tax return in order to claim the dependent exemptions; the Department was authorized under Indiana law and Federal law to require Individual to provide the Social Security numbers, and declined to address Individual's constitutional claims.

ISSUE

I. Individual Income Tax - Dependents' Social Security Number Identification.

Authority: 42 U.S.C. § 405; 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); Dep't of State Revenue v. Caterpillar, Inc., 15 N.E.3d 579, 583 (Ind. 2014); 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 he is not required to identify the dependents claimed on his individual income tax return by the dependents' Social Security numbers.

STATEMENT OF FACTS

Taxpayer is an Indiana individual who filed a 2014 Indiana income tax return. On that return, Taxpayer claimed an exemption for three dependent children. The Indiana Department of Revenue ("Department") disallowed the exemptions purportedly on the ground that Taxpayer did not provide the Social Security numbers of the three children.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was held and Department issued a Letter of Findings on July 6, 2016, denying Taxpayer's protest.

Taxpayer requested a rehearing, which was granted by the Department. An administrative phone hearing was held at which Taxpayer provided additional arguments in support of his protest. This Supplemental Letter of Findings results. Additional facts will be addressed below as necessary.

I. Individual Income Tax - Dependents' Social Security Number Identification.

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.

As a threshold matter, 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). Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to an agency's reasonable interpretation of [the] statute even over an equally

reasonable interpretation by another party." Dep't of State Revenue v. Caterpillar, Inc., 15 N.E.3d 579, 583 (Ind. 2014). Thus all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

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 explicit 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. Taxpayer argues that there is only an absence of a prohibition on requiring Social Security numbers on individual income tax returns, and that this absence of a prohibition does not amount to authorization to require Social Security numbers. Essentially, Taxpayer argues that the Department lacks statutory authority to compel taxpayers to provide Social Security numbers.

However, the Department is, in fact, authorized to require Social Security numbers under Federal statute. This authorization is additionally found in 42 U.S.C. § 405, which provides, in relevant part:

It is the policy of the United States that **any State** (or political subdivision thereof) may, **in the administration of any tax**, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, **utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State** (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, **the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security.** (Emphasis added).

42 U.S.C. § 405(c)(2)(C)(i).

Thus, the Department is authorized under Federal statute to require Social Security numbers to be furnished for purposes of establishing identification of individuals. IC § 4-1-8-1 places some limitations on that authorization, but specifically exempts the Department from those limitations. The State and Federal statutes do not require that Taxpayer obtain Social Security numbers for his dependents; however, the statutes do authorize the Department to require Social Security numbers in order for a taxpayer to avail himself of the exemptions provided for under state tax law.

Taxpayer further protests that the Department's adjustments to his adjusted gross income tax return violate several provisions of the Indiana Constitution, including Ind. Const. art. 1, § 23; art. 1, § 2; and art 1, § 3. As previously stated in the prior Letter of Findings, 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) and 42 U.S.C. § 405.

FINDING

Taxpayer's protest is respectfully denied.

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