DEPARTMENT OF STATE REVENUE

02-20221071.LOF

Letter of Findings: 02-20221071
Corporate 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 (the "Department") official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Business protested the assessment of corporate income tax after filing an amended return. Business established the Department erred in adjusting its records. The Department also incorrectly applied, and subsequently incorrectly wrote off, an overpayment on Business's account.

ISSUE

I. Corporate Income Tax - Assessment.

Authority: IC § 6-8.1-5-1; *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer protests the Department's assessment of additional corporate income tax.

STATEMENT OF FACTS

Taxpayer is an Indiana-based company operating facilities in Indiana and other states. In 2017, Taxpayer was subject to a federal audit related to tax year 2014. The resulting report increased Taxpayer's federal adjusted gross income approximately $13,000.

The Indiana Department of Revenue ("Department") was made aware of adjustments at the federal level. After review, the Department increased Taxpayer's federal adjusted gross income by approximately $1 million. The Department issued a Notice of Proposed Assessment for approximately $68,000 in additional taxes, penalty, and interest for tax year 2014.

Taxpayer protested the assessment. An administrative hearing was held in which Taxpayer explained the basis for the protest. This Letter of Findings results. Additional facts will be provided as necessary.

I. Corporate Income Tax - Assessment.

DISCUSSION

Taxpayer protests the assessment of additional taxes, penalty, and interest. Taxpayer claims the Department incorrectly increased its Indiana taxable income by approximately $1 million when the overall federal increase was approximately $13,000. Taxpayer argues that the Department needs to reduce its adjusted gross income to reflect the correct adjusted amount. Taxpayer does not dispute that it owes additional taxes related to tax year 2014, albeit in a significantly reduced amount. Taxpayer calculates the amount owed to the Department as slightly less than $900, including base tax, penalty, and interest.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. A proposed assessment is prima facie evidence that DOR's claim for the unpaid tax is valid. IC § 6-8.1-5-1(c). The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. *Id.*; *See e.g. Indiana Dept. of State Revenue v. Rent-A-Center East, Inc*., 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

Taxpayer was audited at the federal level for tax year 2014. The audit increased Taxpayer's adjusted gross income approximately $13,000. The completed report was forwarded to the Department for review. The Department increased Taxpayer's adjusted gross income approximately $1 million. This adjustment resulted in an assessment plus penalty and interest of approximately $68,000.

A review of the Department's records shows that the Department adjusted Taxpayer's 2014 return to reflect the addition of $1 million in adjusted gross income. In January 2022, Taxpayer filed an amended Indiana return for tax year 2014. The Department's second adjustment to Taxpayer's 2014 return corrected the error of adding $1 million to the adjusted gross income amount. After the second adjustment, the Department's records correctly reflect Taxpayer's adjusted gross income. The tax liability owed for tax year 2014 was $606 base tax plus penalty and interest totaling $181.75. However, while the tax amount due for 2014 was updated in the system, the Department failed to issue an updated Notice of Proposed Assessment. Instead, the Department offset the original assessed tax liability of $68,000 with Taxpayer's unrelated overpayment from 2017.

Taxpayer also claimed a net operating loss ("NOL") in its original 2014 return. The NOL in Taxpayer's original 2014 return was equal to the adjusted gross income total, so Taxpayer did not owe any Indiana taxes after the initial filing of the return. After the change to Taxpayer's adjusted gross income, a tax liability remained which was not covered by the NOL, and the Department applied the 2017 overpayment to cover the taxes due. Once the 2017 overpayment was applied to the 2014 tax liability, the overpayment was never credited back to tax year 2017. Later, the Department wrote off approximately $68,000, which represented the amount originally overpaid by Taxpayer for 2017 and moved by the Department to offset the incorrect liability for 2014. Essentially, the Department considered the amount written off to be an unclaimed overpayment for 2014 that was past the statute of limitations for claiming such an overpayment. Thus, the amount was written off.

It is clear the Department erred in this case. Taxpayer's 2014 return was incorrectly adjusted to reflect an adjusted gross income increase of $1 million when it should not have been. Once the corrected figures were input into the system, the Department failed to issue a new Notice of Proposed Assessment. The Department then applied a 2017 overpayment to cover the incorrectly assessed tax liability of $68,000. Due to these errors, Taxpayer's account will be adjusted to reflect the 2017 overpayment amount credited back to its account and refunded to Taxpayer. The Department will issue a corrected assessment to reflect the reduced tax, penalty, and interest due for tax year 2014. Taxpayer's protest is sustained.

FINDING

Taxpayer's protest is sustained.

August 23, 2022

Posted: 05/17/2023 by Legislative Services Agency
An html version of this document.