

**Memorandum of Decision: 03-20221180**  
**Withholding Tax**  
**For the Year 2021**

**NOTICE:** [IC 4-22-7-7](#) permits the publication of this document in the Indiana Register. The publication of 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. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

**HOLDING**

Religious Institution was entitled to a refund of tax withdrawn from the Institution's bank account; the Institution was able to reconcile its 2018 monthly and year-end withholding tax returns.

**ISSUE**

**I. Withholding Tax - Discrepancy Refund.**

**Authority:** [IC 6-3-4-8](#); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010).

Taxpayer protests the denial of a refund requesting the return of a penalty amount.

**STATEMENT OF FACTS**

Taxpayer is an Indiana religious organization which routinely files Indiana withholding returns on behalf of its employees. Taxpayer filed a withholding return for the December 31, 2021, period. The return indicated that Taxpayer owed \$459.74. Taxpayer paid this amount January 17, 2021, by means of an ACH ("Automated Clearing House") withdrawal from Taxpayer's checking account.

On that same day and in addition to withdrawing the \$459.74 amount, the Department also withdrew an additional \$32.84. The Department's records indicate that the \$32.84 was a "debit, withholding true-up."

Taxpayer requested a refund of the "true-up" amount seeking the return of \$32.59. The \$32.59 does not match the \$32.84 amount withdrawn from the account. Taxpayer explained the discrepancy stating that \$32.59 was "all [INTIME] would allow to be submitted to be refunded."

The Department first reviewed and then denied the refund request. In a letter dated February 17, 2022, the Department explained that the \$32.84 amount represented a discrepancy between the amount of tax reported on Taxpayer's 2018 monthly WH-1 returns, and the 2018 wage statements included on Taxpayer's form WH-3.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayer's representative explained the basis for the protest. This Memorandum of Decision results.

**I. Withholding Tax - Discrepancy Refund.**

**DISCUSSION**

The issue is whether Taxpayer has provided sufficient information to establish that it correctly reported and paid withholding tax during the 2021 reporting period.

As with any protest of this kind, it is the taxpayer who must make his or her case bearing in mind that any poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Under Indiana law Taxpayer is obligated to accurately report and withhold income tax on behalf of its employees. [IC 6-3-4-8\(a\)](#). As an employer fulfilling that obligation, Taxpayer is "liable to the state of Indiana for the payment of

the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from the individual's wages and paid over in compliance or intended compliance with this section[.]” [IC 6-3-4-8\(a\)\(1\)](#).

The Department found that Taxpayer had listed one number on its individual WH-1s and a different number on its end-of-year WH-3; the difference between those two numbers was \$32.84. A review of the information provided by Taxpayer and the Department's own records, establishes that the Department's conclusion was wrong. Both the WH-1s and the WH-3 indicate that Taxpayer owed and paid \$459.74.

Taxpayer is entitled to a refund of \$32.84.

### FINDING

Taxpayer's protest is sustained.

December 9, 2022

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