

Letter of Findings: 01-20221722
Indiana Individual Income Tax
For the Tax Years 2019 and 2020

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual was responsible for additional income tax stemming from (or attributable to) the flow-through income from Business because Individual and Business failed to establish that the assessments were incorrect.

ISSUE

I. Indiana Individual Income Tax - Flow-through Income.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3-2-2](#); [IC 6-3-2-2.8](#); [IC 6-8.1-5-1](#); [IC 6-8.1-5-4](#); I.R.C. § 1361 *et seq.*; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); [45 IAC 3.1-1-66](#); [45 IAC 3.1-1-67](#).

Taxpayer protests the income tax assessment concerning additional sales by a pass-through entity.

STATEMENT OF FACTS

Taxpayer is an Indiana resident and the sole shareholder of an Indiana S-Corporation. The S-Corporation provides acupuncture, massage, health consultations, and evaluations. The S-Corporation also sells tangible personal property including herbs, balms, and shampoos. The S-Corporation's income flows through to Taxpayer, who in turn reports that flow-through income on his federal and Indiana income tax returns.

The Indiana Department of Revenue ("Department") audited the S-Corporation's tax returns and business records. Ultimately, the audit resulted in additional sales and additional income to S-Corporation. The additional income was subsequently passed through to Taxpayer. As such, the Department assessed Taxpayer additional income tax.

Taxpayer and S-Corporation protested the audit assessments. A hearing was held. This Letter of Findings ensues and addresses Taxpayer's protest of his individual income tax assessments. Letter of Findings 04-20221721 (January 2024) addresses S-Corporation's protest of sales tax assessments.

I. Indiana Individual Income Tax - Flow-through Income.

DISCUSSION

Pursuant to the audit, the Department determined that Taxpayer received additional flow-through income from S-Corporation. Taxpayer, to the contrary, argued that the audit findings overstated sales of S-Corporation. The issue therefore is whether Taxpayer provided sufficiently verifiable documents to substantiate that, as the sole shareholder of S-Corporation, he was not responsible for the additional flow-through income subject to Indiana income tax.

[IC 6-8.1-5-4\(a\)](#) requires that "[e]very person subject to a listed tax must keep books and records so that the [D]epartment can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records [] include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks." The person also "must allow inspection of the books and records and returns by the [D]epartment or its authorized agents at all reasonable times." [IC 6-8.1-5-4\(c\)](#).

When the person subject to the listed tax fails to keep books and records, under [IC 6-8.1-5-1\(b\)](#), the Department

"shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the [D]epartment" if the Department "reasonably believes that a person has not reported the proper amount of tax due."

All tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; 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 taxpayer is required to provide documentation explaining and supporting its challenge that the assessment is wrong. 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).

Indiana imposes an adjusted gross income tax on all residents. [IC 6-3-2-1](#). A taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. [IC 6-3-1-3.5](#). For corporations and nonresidents, [IC 6-3-2-2\(a\)](#) provides what is income derived from Indiana sources and subject to Indiana income tax. To compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code.

An S Corporation generally does not pay taxes on its income. [IC 6-3-2-2.8](#); see also I.R.C. § 1361 *et seq.* Rather than taxing the income at the business level, the S corporation's income is passed through to the S corporation's shareholders. As such, the shareholders, such as Taxpayer in this case, must report the flow-through income on his own income tax returns. [45 IAC 3.1-1-66](#) and [45 IAC 3.1-1-67](#).

In this instance, Taxpayer is the sole shareholder of S-Corporation, which was found to have additional sales. As such, Taxpayer was responsible for income tax on the additional income from S-Corporation. Referencing the documents such as S-Corporation's "Profit & Loss" Statement, "Transaction Detail By Account" information, a list of addresses, and an email exchange with the government agency, Taxpayer protested the assessment of the flow-through income. However, the documents provided were either irrelevant or could not be verified. As discussed above, "[p]oorly developed and non-cogent arguments are subject to waiver." As such, the Department must conclude that Taxpayer has failed to meet its statutory burden under [IC 6-8.1-5-1\(c\)](#) of establishing that the assessment or assessments were wrong.

FINDING

Taxpayer's protest is respectfully denied.

January 12, 2024

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