DEPARTMENT OF STATE REVENUE

01-20181612.LOF

Letter of Findings: 01-20181612
Income Tax
For the Years 2013, 2014, and 2015

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Business and its Shareholder failed to demonstrate that Business conducted qualified research activities. The documents offered by Business and its Shareholder did not clearly establish that Business and its Shareholder were entitled to the Indiana Research Expense Credits.

ISSUE

I. Individual Adjusted Gross Income Tax - Burden of Proof.

Authority: I.R.C. § 41; IC § 6-3-2-1; IC § 6-3-1-3.5; IC § 6-3.1-4-1; IC § 6-3.1-4-4; IC § 6-8.1-5-1; IC § 6-8.1-5-4; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Scopelite v. Indiana Dep't of Local Gov't Fin.,* 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue,* 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Suder v. Comm'r,* T.C. Memo. 2014-201 (T.C. 2014); *United States v. McFerrin*, 570 F.3d 672 (5th Cir. 2009); *Stinson Estate v. United States*, 214 F.3d 846 (7th Cir. 2000); *Conklin v. Town of Cambridge City*, 58 Ind. 130 (1877); *Indiana Dep't. of State Revenue, Sales Tax Division v. RCA Corp.*, 310 N.E.2d 96 (Ind. Ct. App. 1974); Treas. Reg. § 1.41-4; Treas. Reg. § 1.174-2; Treas. Reg. § 1.6001-1; IRS, *Audit Technique Guide*, 2005 WL 4057831 (June 2005); IRS, *Audit Guidelines on the Application of the Process of Experimentation for all Software*, https://www.irs.gov/businesses/audit-techniques-guide-credit-for-increasing-research-activities-i-e-research-tax-credit-irc-41-qualified-research-activities.

Shareholder of a software company argued that he was entitled to claim the Indiana research expense credits because his software company conducted qualified research activities.

STATEMENT OF FACTS

Taxpayer is the sole shareholder of an S corporation, which sells software applications to be used by its clients in their business activities. As the sole shareholder of the software company, Taxpayer reported and claimed the company's "flow-through" credits on his individual income tax returns. Taxpayer claimed the Indiana Research Expense Credits ("REC") for 2013, 2014, and 2015 tax years ("Tax Years at Issue").

The Indiana Department of Revenue ("Department") audited the business records and tax returns of Taxpayer and the company (*collectively*, "Taxpayers"). Pursuant to the audit, the Department disallowed Taxpayers' REC on the ground that Taxpayers were not entitled to claim the REC.

Taxpayers protested. An administrative hearing was conducted during which Taxpayers' representatives explained the basis for the protest. Taxpayers requested additional time to submit additional supporting documentation. This Letter of Findings results. Further facts will be provided, as necessary.

I. Individual Adjusted Gross Income Tax - Burden of Proof.

DISCUSSION

Pursuant to the audit, the Department disallowed Taxpayers' claimed REC, determining that Taxpayers' activities (1) did not meet the definition of and (2) were excluded from "qualified research" under I.R.C. § 41. Specifically, the audit noted that Taxpayers did not have any employees prior to 2015. The audit concluded that Taxpayers did not provide sufficient and verifiable supporting documentation to substantiate the amount of time and expenses

during which Taxpayers' employees were purportedly engaged in activities which met the definition of "qualified research." The audit also could not apply the "shrinking-back" rule because of insufficient supporting documentation.

Taxpayers disagreed, claiming that the Department erroneously disallowed their REC. Thus, the issues are whether Taxpayers conducted qualifying research activities, whether Taxpayers can document the extent to which Taxpayers' employees conducted those qualifying activities, and whether Taxpayers were also entitled to claim contract expenses.

As a threshold issue, it is a taxpayer's responsibility to establish that the existing 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). Thus, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position 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); *Wendt LLP v. Indiana Dep't of State Revenue,* 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012). "[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).

Indiana follows the federal tax scheme with certain modifications. IC § 6-3-2-1(b); IC § 6-3-1-3.5(b). Indiana also provides certain tax credits which a taxpayer may claim to reduce its tax liability. One of the tax credits available for the Tax Years at Issue under Indiana tax law is the REC under IC § 6-3.1-4-1 *et seq.* which was effective until December 31, 2015, provides:

> The provisions of Section 41 of the Internal Revenue Code as in effect on January 1, 2001, and the regulations promulgated in respect to those provisions and in effect on January 1, 2001, are applicable to the interpretation and administration by the department of the credit provided by this chapter, including the allocation and pass through of the credit to various taxpayers and the transitional rules for determination of the base period. IC § 6-3.1-4-4.

I.R.C. § 41(d)(1) defines "qualified research" is research -

> (A) with respect to which expenditures may be treated as specified research or experimental expenditures under section 174,
> (B) which is undertaken for the purpose of discovering information--
>   (i) which is technological in nature, and
>   (ii) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and
> (C) substantially all of the activities of which constitute elements of a process of experimentation for a purpose described in paragraph (3).
>
> Such term does not include any activity described in paragraph (4).

In other words, under I.R.C. § 41(d)(1), "qualified research" is research that meets the above distinct four tests and cannot be activities outlined under I.R.C. § 41(d)(4), as follow:

> **(A) Research after commercial production**. Any research conducted after the beginning of commercial production of the business component.
> **(B) Adaptation of existing business components.** Any research related to the adaptation of an existing business component to a particular customer's requirement or need.
> **(C) Duplication of existing business component.** Any research related to the reproduction of an existing business component (in whole or in part) from a physical examination of the business component itself or from plans, blueprints, detailed specifications, or publicly available information with respect to such business component.
> **(D) Surveys, studies, etc.** Any
>   (i) efficiency survey,
>   (ii) activity relating to management function or technique,
>   (iii) market research, testing, or development (including advertising or promotions),
>   (iv) routine data collection, or

(v) routine or ordinary testing or inspection for quality control.

(E) Computer software. Except to the extent provided in regulations, any research with respect to computer software which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer, other than for use in--

(i) an activity which constitutes qualified research (determined with regard to this subparagraph), or

(ii) a production process with respect to which the requirements of paragraph (1) are met.

(F) Foreign research. Any research conducted outside the United States, the Commonwealth of Puerto Rico, or any possession of the United States.

(G) Social sciences, etc. Any research in the social sciences, arts, or humanities.

(H) Funded research. Any research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

(**Emphasis in original**).

Each of the above tests must be applied separately to first at the level of the discrete business component. If a business component as a whole fails one of the tests, the "shrinking-back rule" could be applied pursuant to Treas. Reg. § 1.41-4(b)(2).

In order to obtain the benefit of the credit, both Indiana and federal law require that a taxpayer maintain and produce *contemporaneous* records sufficient to verify those credits. "Tax credits are a matter of legislative grace, and taxpayers bear the burden of proving they are entitled to claim tax credits." *Suder v. Comm'r,* T.C. Memo. 2014-201, 12-13 (T.C. 2014).Moreover, where such a credit is claimed, "the party claiming the same must show a case, by sufficient evidence, which is clearly within the exact letter of the law." *Indiana Dep't of State Revenue, Sales Tax Division v. RCA Corp.*, 310 N.E.2d 96, 100-01 (Ind. Ct. App. 1974) (citing *Conklin v. Town of Cambridge City*, 58 Ind. 130, 133 (1877)). "Tax credits are a matter of legislative grace, are only allowed as clearly provided for by statute, and are narrowly construed." *United States v. McFerrin*, 570 F.3d 672, 675 (5th Cir. 2009)(citing *Stinson Estate v. United States*, 214 F.3d 846 (7th Cir. 2000)).

Under IC § 6-8.1-5-4 "Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability. . . ." In addition, Treas. Reg. § 1.41-4(d)(1) (2001) states that for taxpayer to receive the research and development tax credit, a taxpayer must:

Prepare[] documentation before or during the early stages of the research project, that describes the principal questions to be answered and the information the taxpayer seeks to obtain to satisfy the requirements of paragraph (a)(3) of this section and retains that documentation on paper or electronically in the manner prescribed in applicable regulations, revenue rulings, revenue procedures, or other appropriate guidance until such time as taxes may no longer be assessed [] for any year in which the taxpayer claims to have qualified research expenditures in connection with the research project; and (2) satisfies section 6001 and the regulations thereunder.

The IRS's *Audit Technique Guide*, 2005 WL 4057831 (June 2005) provides useful guidance in relation to the information necessary to verify research expense credits. The Guide states:

7. Substantiation and Record Keeping

Under the final regulations, ***a taxpayer must retain records in sufficiently usable form and detail to substantiate that the expenditures claimed are eligible for the credit***. *See* I.R.C. § 6001; Treas. Reg. § 1.6001-1. The taxpayer must clearly establish full compliance with all of the relevant statutory and regulatory requirements. Failure to maintain records in accordance with these rules is a basis for disallowing the credit.

The Service does not have to accept estimates of qualified research expenses if documentation exists to verify the actual amount of such expenses. As set forth above, taxpayers are required to keep records substantiating the amount of any reported, claimed, or affirmatively raised deductions or credits.

The courts will allow the use of an estimation method only where the taxpayer does not have contemporaneous records, and then only as long as the following two conditions are satisfied. First, the taxpayer must establish that it engaged in qualified research activities as defined in section 41(d). And second, the failure to maintain a proper system to capture relevant information cannot be an "inexactitude [] of their own making." ***Estimation methods are permitted only in cases where the sole issue is the exact amount paid or incurred in the qualified research activity. Accordingly, taxpayers must have factual support for every assumption underlying their estimates to meet their burden of proof***.

2005 WL, at *24. *Audit Techniques Guide: Credit for Increasing Research Activities (i.e. Research Tax Credit) IRC § 41 - Substantiation and Recordkeeping*, available at https://www.irs.gov/businesses/audit-techniques-guide-credit-for-increasing-research-activities-ie-research-tax-credit-irc-ss-41-substantiation-and-recordkeeping (last visited April 22, 2021) (**Emphasis in original**)(*Emphasis added*).

Thus, while estimation methods can be permissible when computing the amount of the REC, those estimates must be backed by documentation which verifies the amount of the expense. To reiterate the IRS' guidance, "[T]axpayers must have factual support for every assumption underlying their estimates to meet their burden of proof."

A. The Audit.

The Department's audit in this instance noted that Taxpayers claimed the REC regarding "two different enterprise level trust accounting software applications" offered to the market. One, initially created in 2001, is PC based software program, using Visual Basic 6 as the core programming language. The other is web-based software program, using C# as the core programing language. The web-based software uses a web hosting service that can be accessed from any internet compatible device.

The audit found that both software applications perform the same functions and only differ in how they are accessed by customers - the former is PC based and the latter is web based. The audit further found that C# and Visual Basic 6 are computer language software programs created by Microsoft and commonly used by software developers to customize specific software for their own or customer use.

The audit concluded that Taxpayers' activities did not meet the four tests required under I.R.C. § 41(d) which defines "qualified research" as research:

   1. With respect to which expenditures may be treated as expenses under section 174[;]
   2. Which is undertaken for the purposes of **discovering information** and which is technological in nature [also known as the Discovery Test[;]
   3. The application of which is intended to be useful in the development of a **new or improved business component** of the taxpayer; and
   4. **Substantially all of the activities which constitute elements of a process of experimentation for a [qualifying purpose]**.

   (**Emphasis added**).

I.R.C. § 41(d) sets out this four-pronged test for verifying qualified research activities. First, the research must have qualified as a business deduction under I.R.C. § 174. I.R.C. § 41(d)(1)(A). Second, the research must be undertaken to discover information "which is technological in nature." I.R.C. § 41(d)(1)(B)(i). Third, the taxpayer must intend to use the information to develop a new or improved business component. I.R.C. § 41(d)(1)(B)(ii). Finally, the taxpayer must pursue a "process of experimentation" during substantially all of the research. I.R.C. § 41(d)(1)(C).

1. Section 174 Business Deduction.

The audit found that Taxpayers' expenditures did not meet the first test - verifying qualified research and experimental expenditures - based on the definition set out in Treas. Reg. § 1.174-2 which states in part:

   The term research or experimental expenditures, as used in section 174, means expenditures incurred in connection with the taxpayer's trade or business which represents research and development costs in the experimental or laboratory sense. The term generally includes all such costs incident to the development or improvement of a product. . . . Expenditures represent research and development costs in the experimental or laboratory sense if they are for activities intended to discover information that would eliminate uncertainty concerning the development or improvement of a product. Uncertainty exists if the information available to the taxpayer does not establish the capability or method for developing or improving the product or the appropriate design of the products.

The audit found that Taxpayers' activities did not meet the "technical uncertainties" test. The audit also found that "[t]he development of a 100[percent] browser based system . . . is an adaptation of the [PC based] software" and

"[d]etermining the length of time an existing technology can be utilized is not a question pertaining to uncertainties concerning a new software system." The audit concluded that Taxpayers' activities did not meet the elimination of uncertainty definition under section 174.

2. Discovering Technological Information.

The Department cited to Treas. Reg. § 1.41-4(a)(3)(i) of the 2001 Final Regulations which states:

> For purposes of section 41(d) and this section, research is undertaken for the purpose of **discovering information** only if it is undertaken to obtain knowledge that exceeds, expands, or **refines the common knowledge** of skilled professionals in a particular field of science or engineering. T.D. 8930, 66 F.R. 280-01 at 290. (**Emphasis added**).

The Department's audit found the following:

> The technical disciplines employed by the taxpayer were software programming in C#; jQuery; .Net Framework; Visual Basic 6; Amazon Web Services; and development and operations IT. . . .

> As a computer Software Company the taxpayer must have uncertainty in the final design or development methods to be used at the outset of the software development. . . . The information being gathered . . . is not considered qualified research.

The audit also cited to Treas. Reg. 1.41-4(a)(3) (T.D. 9104) and rejected Taxpayers' contention that they were conducting qualified research necessary to resolve "uncertainties."

> The taxpayer's activities are not qualified research under Treasury Decision 9104. . . . The taxpayer must be discovering information to eliminate uncertainty and that uncertainty exists only if the information available to the taxpayer does not establish the capability or method for developing or improving the business component or the appropriate design of the business component. As previously stated the taxpayer has been in business for many years and has employees with education/experience in the computer software industry.

Referencing IRS' *Audit Guidelines on the Application of the Process of Experimentation for all Software*, available at https://www.irs.gov/businesses/audit-techniques-guide-credit-for-increasing-research-activities-i-e-research-tax-credit-irc-41-qualified-research-activities (last visited April 9, 2021) ("*IRS Audit Guidelines for all Software*"), the audit noted the following:

> [P]erforming studies to select vendor products is high risk and usually fail to constitute qualified research. For example, choosing between database management systems (like Oracle or DB2), choosing between computer manufacturers (e.g., HP, IBM, or Dell), choosing between enterprise resource program supplier (e.g., SAP, Oracle, or PeopleSoft), or choosing between web portal platforms (WebLogic or Web Sphere) are generally routine due diligence product selection studies. Such studies are generally not directed at resolving software development uncertainties through identifying and conducting a process designed to evaluate alternatives which fundamentally relies on the principles of computer science.

The audit determined that Taxpayers' activities fail the second test, research undertaken for the purpose of discovering information which is technological in nature.

3. New or Improved Business Component.

As to the third of the four tests - the Business Component Test - the taxpayer must intend that the information to be discovered during its research will be useful in the development of a new or improved business component of the taxpayer. I.R.C. § 41(d)(1)(B)(ii). A "business component" is a product that the taxpayer either holds for sale, lease, or license or uses in its trade or business. I.R.C. § 41(d)(2)(B). For purposes of this test, the taxpayer must identify the business components for which it claims qualified research activities.

The audit noted the following:

> IRS Audit Guidelines on the Application of the Process of Experimentation for all Software states that modifying an existing software business component to make use of new or existing standards or devices, or to be compliant with another vendor's product or platform is a high risk category of software development and

usually fail to constitute qualified research under IRC section 41(d). Activities associated with modifying software to use new devices or standards generally involve an examination of the existing software to locate where these changes need to be inserted into the software. These debugging and testing activities are generally not directed at resolving software development uncertainties though identifying and conducting a process designed to evaluate alternatives, which fundamentally relies on the principles of computer science, but instead are directed at verifying that the software works according to the standards or devices, or successfully passes another vendor's certification test.

The taxpayer stated . . . that the research activities undertaken by the taxpayer included efficiency surveys; market research; routine data collection; and routine or ordinary testing or inspection for quality control . . . .

According to [I.R.C. §] 41(d)(4), there are certain activities that are specifically excluded from qualified research. Exclusion for surveys, studies, and research relating to management functions. Market research, testing, development, routine data collection, or routine testing or inspections for quality control are excluded activities under this provision.

The audit determined that Taxpayers did not demonstrate that they met the third test that they intended to use the information to develop a new or improved business component.

4. Undertaking a Process of Experimentation.

Finally, as to the fourth test, the audit referred to Treas. Reg. § 1.41-4(a)(5) (T.D. 8930) which states in part:

A process of experimentation is a process to evaluate more than one alternative designed to achieve a result where the capability or method of achieving that result is uncertain at the outset. A process of experimentation does not include the evaluation of alternatives to establish the appropriate design of a business component, if the capability and method for developing or improving the business component are not uncertain.

The audit also cited to Treas. Reg. 1.41-4(a)(5)(a) (T.D. 9104) which provides in part:

A process of experimentation must fundamentally rely on the principles of the physical or biological sciences, engineering, or computer science and involves the identification of uncertainty concerning the development or improvement of a business component, the identification of one or more alternatives intended to eliminate that uncertainty, and the identification and the conduct of a process of evaluating the alternatives (through, for example, modeling, simulation, or systematic trial and error methodology). A process of experimentation must be an evaluative process and generally should be capable of evaluating more than one alternative.

The audit referenced the *IRS Audit Guidelines for all Software*, which explains:

In software development, as with the development of tangible business components, there is a distinction between a software development uncertainty, that is resolved through a process of experimentation, and a software development uncertainty that is resolved by other means. For example, a taxpayer may have to configure a software application, and may be uncertain about which configuration choices to make. This uncertainty, in and of itself, does not indicate that the taxpayer subsequently engaged in a process of experimentation to eliminate the configuration uncertainty. The activities undertaken to eliminate the configuration uncertainty are determinative. In addition to software development uncertainties, there are other types of uncertainties, namely business and project uncertainties. Business uncertainties could, for example, be whether or not potential customers will react favorably to the new product, and/or whether or not the product will be competitive. Project uncertainties could be whether or not the existing staff is adequately trained to use a technology, and/or whether the project can be completed within a given schedule and budget. **Such uncertainties do not meet the requirements of I.R.C. § 41(d). (Emphasis added)**

Based on the information provided, the audit found that Taxpayers failed to meet the "experimentation" standard under either the "discovery" or "uncertainty" tests.

B. Taxpayers' Response.

Throughout the protest process, Taxpayers contended that the Department erred in disallowing their REC for the Tax Years at Issue. Referencing their "Release Notes," Taxpayers argued that their activities met the above-referenced four tests. Subsequently after the hearing, upon the Department's request, Taxpayers

submitted their Jira (an issue and product tracking software) in Excel worksheet format concerning the Tax Years at Issue. In a memorandum accompanying to their submission, Taxpayers explained the following:

> The Jira documentation provided does not document every uncertainty faced by the Taxpayer, which is expansive. At the outset of a project, the Taxpayer has known or anticipated challenges which may include: how to integrate different components that were not designed to operate together, how to design the features and enhancements in a way that meet the necessary functional requirements without impacting the performance or reliability of the software, and how to design the software in a scalable manner. The Jira document does not summarize or discuss these initial challenges or concerns, but is a key source for identifying the specific and key issues encountered during the development process. . . .

C. Analysis and Conclusion.

Upon review, Taxpayers' reliance on their interpretation of the above tests and required substantiation is misplaced. Taxpayers are statutorily required to demonstrate that for the Tax Years at Issue, their activities satisfied *each and all* the four tests and their activities were not excluded under I.R.C. § 41(d)(4). Specifically, "[t]he employment of computers or information technology, or the reliance on principles of computer science or information technology to store, collect, manipulate, translate, disseminate, produce, distribute, or process data or information, and similar uses of computers and information technology does not itself establish that qualified research has been undertaken." Treas. Reg. § 1.41-4(a)(7). Taxpayers' Release Notes simply summarized "the cumulative additions and changes made to [software] as patches to . . . the system." Similarly, Taxpayers' Jira documents simply stated software issues which were needed to be resolved in a summarized Excel worksheet. Together, the documents failed to substantiate their "new or improved business component." The documents also failed to substantiate that Taxpayers' activities discovered information that was technological in nature. The documents submitted simply outlined Taxpayers' ongoing maintenance of their software applications.

Even if, for the purposes of argument, assuming that Taxpayers were able to document (i) their new or improved business component or components, (ii) the directly incurred section 174 business expenses, and (iii) their activities discovered information that was technological in nature, Taxpayers' documents still failed to substantiate that their activities met the "process of experimentation" test, which requires that "substantially all of the research activities constitute elements of a process of experimentation for a qualified purpose." In other words, Taxpayers are required to provide verifiable supporting documents to substantiate the following: (1) the "substantially all" element, (2) the "process of experimentation" element, and (3) the "qualified purpose" element. Taxpayers did not do so.

Further, the IRS Audit Guidelines for all Software clearly explains:

> In software development, . . . there is a distinction between a software development uncertainty, that is resolved through a process of experimentation, and a software development uncertainty that is resolved by other means. . . . **This uncertainty, in and of itself, does not indicate that the taxpayer subsequently engaged in a process of experimentation to eliminate the [] uncertainty**.

> In addition to software development uncertainties, **there are other types of uncertainties, namely business and project uncertainties**. Business uncertainties could, for example, be whether or not potential customers will react favorably to the new product, and/or whether or not the product will be competitive. Project uncertainties could be whether or not the existing staff is adequately trained to use a technology, and/or whether the project can be completed within a given schedule and budget. **Such uncertainties do not meet the requirements of I.R.C. § 41(d)**.

> (**Emphasis added**).

Therefore, the Department is not able to agree that Taxpayers' activities qualified *each and all* the above tests. As such, Taxpayers were not entitled to the REC for the Tax Years at Issue.

Moreover, as mentioned earlier, in addition to the failure to meet the above tests, the Department's audit determined that Taxpayers' activities in question concerning PC based application, which was created in 2001, and their web-based application were adaption under I.R.C. § 41(d)(4). The audit further concluded that Taxpayers' activities such as collecting data or surveys, were excluded under I.R.C. § 41(d)(4). Taxpayers did not provide any supporting documentation to demonstrate otherwise. Therefore, this issue is moot. Taxpayers could not claim the REC because their activities were excluded activities pursuant to I.R.C. § 41(d)(4).

Finally, the shrinking-back rule is not applicable in this instance because Taxpayers did not offer any information to support the application of shrinking back rule - shrinking back to the next available business component or components.

In short, given the totality of the circumstances, in the absence of other verifiable supporting documentation, the Department is not able to agree that Taxpayers met their burden of proof demonstrating that the Department's assessments were incorrect.

FINDING

Taxpayers' protest is respectfully denied.

April 27, 2021

Posted: 07/07/2021 by Legislative Services Agency
An [html] version of this document.