Update On Indiana Intellectual Property Holding Company Controversies

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As we have reported in numerous prior editions, the Indiana Department of Revenue has increasingly become active in challenging the use of intellectual property holding companies. The Department has crafted several theories in support of that effort, such as asserting nexus over the intellectual property holding company[1] and forced consolidation.[2] Unfortunately, those theories will likely escape review by the courts.

Most Indiana assessments related to intellectual property holding companies are being settled for a percentage of the applicable proposed assessment after the issuance of the adverse administrative decision, but before any judicial review. An official with the Department with knowledge of this issue recently indicated that he is not aware of any intellectual property holding company cases pending in the Indiana Tax Court. Perhaps the Department's bark is bigger than its bite.■

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[1] *See, e.g.*, Indiana Letter of Findings Nos. 95-0401 & 04-0251.

[2] *See, .e.g.*, Indiana Letter of Findings Nos. 02-0087 & 02-0310.