

**Letter of Findings: 01-20150083
Individual Income Tax
For the Year 2011**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Regardless of Indiana's reciprocity agreement with Michigan, interest income earned from an out-of-state money-market account by an Indiana individual should have been included in the individual's Indiana adjusted gross income.

ISSUE

I. Individual Income Tax - Money-Market Distribution.

Authority: IC § 6-3-2-1(a); IC § 6-3-1-3.5(a); IC § 6-8.1-5-1(c); Dept. of State Revenue v. Caterpillar, Inc., 15 N.E.3d 579 (Ind. 2014); Wendt LLP v. Indiana Dep't of State Revenue, 977 N.E.2d 480 (Ind. Tax Ct. 2012); 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); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007); [45 IAC 3.1-1-115](#); Black's Law Dictionary (7th ed. 1999).

Taxpayer argues he was not required to report on his Indiana income tax return income earned from a money-market distribution.

STATEMENT OF FACTS

Taxpayer is an individual living in Indiana who filed an Indiana individual income tax return for 2011. During 2011, Taxpayer received a distribution from an Ohio money-market account managed by or derived from a Michigan financial advisor. Taxpayer included that amount in his federal adjusted gross income return but excluded the amount on his Indiana adjusted gross income.

The Indiana Department of Revenue ("Department") made an adjustment to Taxpayer's 2011 Indiana return adding back the distribution resulting in the assessment of additional Indiana income tax.

Taxpayer disagreed with the assessment and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayer explained the basis for the protest. This Letter of Findings results.

I. Individual Income Tax - Money-Market Distribution.

DISCUSSION

The issue is whether the distribution received from his money-market account is subject to Indiana income tax and should have been included in Taxpayer's 2011 Indiana adjusted gross income.

All tax assessments are prima facie evidence that the Department's claim for the tax is valid, and each 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); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). 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). In reviewing a taxpayer's argument, the Indiana Supreme Court has held, that when it examines a statute that an agency is "charged with enforcing . . . we defer to the agency's reasonable interpretation of [the] statute

even over an equally reasonable interpretation by another party." Dept. of State Revenue v. Caterpillar, Inc., 15 N.E.3d 579, 583 (Ind. 2014).

Indiana imposes an income tax on "the adjusted gross income of every resident person" IC § 6-3-2-1(a). For income tax purposes, Indiana defines "adjusted gross income" in the case of individuals, as the term is defined in I.R.C. § 62 with certain modifications specific to Indiana. IC § 6-3-1-3.5(a). To compute an Indiana resident's Indiana income tax, the starting point is that person's federal adjusted gross income.

Taxpayer reported the money-market distribution on his federal return. However, Taxpayer excluded it from his Indiana return on the ground that Indiana has a reciprocity agreement with Michigan. Taxpayer explains that he entered into an agreement with a mutual fund headquartered in Michigan and points to the directions contained in Indiana's 2011 IT-40 Booklet which provides as follows:

If you were an Indiana resident during 2011 and had income from one of the states listed in Group B, you are covered by a reciprocal agreement. However, this agreement only applies to income from wages, salaries, tips and commissions.

. . . .

Normally, employers in these states will withhold Indiana state tax from your wages because of the reciprocal agreement. However, if the state tax they withheld is not for Indiana, you must file a claim for refund with that state. You still have to include this income on your Indiana return and pay the Indiana tax.

The significance of the reciprocity agreement is explained in the Adjusted Gross Income Tax Regulations at [45 IAC 3.1-1-115](#) as follows:

Reciprocal income tax agreements now exist between Indiana and the states of Illinois, Kentucky, Michigan, Ohio, Pennsylvania and Wisconsin. The agreements provide that Indiana will not impose its adjusted gross income tax on salaries, wages and commissions earned by legal residents of these states in Indiana and they in turn will not impose their individual income tax on wages, salaries and commissions earned by legal residents of Indiana in those states.

"Money-Market Account" is defined as "[a]n interest-bearing account at a bank or other financial institution." Black's Law Dictionary 1022 (7th ed. 1999). These accounts "pay interest competitive with money-market funds . . ." Id.

Taxpayer is an Indiana resident subject to this state's adjusted gross income tax. The reciprocal agreement with Michigan provides that "Indiana will not impose its adjusted gross income tax on salaries, wages and commissions earned by legal residents of [Michigan] in Indiana and that [Michigan] in turn will not impose [its] individual income tax on wages, salaries and commissions earned by legal residents of Indiana in [Michigan]." [45 IAC 3.1-1-115](#).

Taxpayer misunderstands the significance of the Indiana's reciprocity arrangement with Michigan. At the outset, the interest Taxpayer earned from his money-market account is not "salaries, wages, nor commissions."

Further, the reciprocal agreement with Michigan precludes Indiana from taxing Michigan residents on certain income earned in Indiana and precludes Michigan from taxing the income of Indiana residents on that same category of income. Taxpayer erroneously takes the reciprocity agreement to mean that he can exclude the interest income he earned from an out-of-state money-market account in reporting his income subject to Indiana income tax.

However, Taxpayer is not a Michigan resident and Michigan is not attempting to tax income earned by him as an Indiana resident. The reciprocal agreement with Michigan is simply irrelevant in determining whether or not the interest distribution is subject to Indiana's adjusted gross income tax provisions. Taxpayer has failed to meet his burden under IC § 6-8.1-5-1(c) of establishing that the assessment was "wrong."

FINDING

Taxpayer's protest is respectfully denied.

