

Letter of Findings 01-20150346
Individual Income Tax
For the Year 2012

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Indiana resident met her burden of proof establishing that she was not required to file a 2012 Indiana income tax return.

ISSUE

I. Individual Income Tax - Assessment.

Authority: IC § 6-3-1-12; IC § 6-3-2-1(a); IC § 6-3-4-1; 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).

Taxpayer argues that she was not required to file a 2012 individual income tax return because she earned less than \$500 that year and because a form 1099 filed by a former employer was incorrect.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. In March 2015, the Indiana Department of Revenue ("Department") sent Taxpayer a letter indicating that she had "unreported income for tax year 2012" and stating that she was required to "file an Indiana return if you were an Indiana resident or had Indiana income and were required to file a federal income tax return."

Taxpayer disagreed with the assessment explaining in a letter that she was largely unemployed during 2012 earning a total of \$265 as a part-time employee. Taxpayer explained that she did not file a 2012 Indiana income tax return because she had earned less than \$500 that year.

There is no record of a response on the part of the Department to the Taxpayer's purported explanation.

Taxpayer submitted a protest asking for an opportunity to explain her circumstances during an administrative hearing. That hearing was conducted by telephone. During the hearing, Taxpayer explained the various documents which she had previously submitted to the Department. This Letter of Findings results.

I. Individual Income Tax - Assessment.

DISCUSSION

Taxpayer disagrees with the assessment. While admitting that she is an Indiana resident, she maintains she did not meet the threshold requirement for filing a 2012 individual income tax return.

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, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person" IC § 6-3-2-1(a). For income tax purposes, "The term 'resident' includes (a) any individual who was domiciled in this state during the taxable year, (b) any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state" IC § 6-3-1-12.

There is no dispute that Taxpayer is an Indiana resident. IC § 6-3-4-1 sets out the requirements for those persons who are required to file Indiana income tax returns. In relevant part, the statute provides:

Returns with respect to taxes imposed by this act shall be made by the following:

- (1) Every resident individual having for the taxable year gross income in an amount greater than the modifications provided under [IC 6-3-1-3.5\(a\)\(3\)](#) and [IC 6-3-1-3.5\(a\)\(4\)](#).

The cross-references contained with IC § 6-3-4-1(1) provide for a "standard" \$1,000 deduction for individuals.

Taxpayer submitted a copy of the earnings and wage statement provided to her by the Social Security Administration. That record indicates that she earned \$265 during 2012.

Taxpayer indicates that the Indiana assessment may have been triggered by erroneous 1099 forms submitted by a previous employer for whom she last worked in 2008. Taxpayer included copies of her correspondence with that former employer sent in an unsuccessful effort to correct what Taxpayer regarded as incorrect 1099 MISC returns.

An independent review of the Department's own records failed to establish that the employer who issued the purportedly erroneous 1099 returns is registered with the Department, registered to do business in Indiana, or withheld income tax on behalf of the Taxpayer.

Based on a review of the documentation made available by both the Department and the Taxpayer, the Department is prepared to agree with Taxpayer that she has met her burden under IC § 6-8.1-5-1(c) of establishing that the 2012 assessment was wrong.

FINDING

Taxpayer's protest is sustained.

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