

**Letter of Findings: 01-20160022**  
**Individual Income Tax**  
**For the Tax Years 2010 - 2013**

**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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 failed to demonstrate that the proposed assessments were not correct for the years at issue. Individual did not file Indiana income tax returns for the years at issue and did not otherwise provide documentation demonstrating that the proposed assessments were incorrect.

### ISSUE

#### **I. Income Tax–Burden of Proof Assessment Incorrect.**

**Authority:** IC § 6-8.1-5-1; IC § 6-3-2-2; IC § 6-3-2-1; IC § 6-3-1-3.5; Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007); 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); Wendt LLP v. Indiana Dep't of State Revenue, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the imposition of Indiana individual income tax for tax years 2010 - 2013.

### STATEMENT OF FACTS

Taxpayer a resident of Indiana who did not file Federal or Indiana income tax returns for tax years 2010 through 2013 (tax years at issue). The Indiana Department of Revenue ("Department") determined that Taxpayer was required to file Indiana income tax returns for those years. As such, the Department generated tax assessments, which include base tax, interest, and penalties for those years using the best information available to it. Taxpayer timely protested these assessments claiming that he did not owe tax and needed to file amended returns. An administrative hearing was scheduled which Taxpayer waived. This Letter of Findings results based on the information within Taxpayer's protest file and conversations with the Taxpayer. Additional facts will be provided as necessary.

#### **I. Income Tax-Burden of Proof Assessment Incorrect.**

### DISCUSSION

The Department assessed Taxpayer Indiana income tax for the tax years at issue based on the best information available. Taxpayer protested the assessments disagreeing with the amount he owed. Taxpayer further stated the he needs to file "amended" returns for the tax years at issue.

As a threshold issue, all tax assessments are prima facie evidence that the Department's claim for 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. 2011); Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, the taxpayer is required to provide documentation explaining and supporting its 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. 2011).

Indiana imposes an adjusted gross income tax on all residents. IC § 6-3-2-1(a). 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(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income

tax. For Indiana income tax purposes, the presumption is that taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In March 2015, the Department notified Taxpayer that he did not file individual income tax returns for tax years 2010 - 2013 and that he must file returns or provide certain requested documents within thirty days. Because Taxpayer failed to timely respond to that notice, the Department generated tax assessments for those tax years based on the best information available to the Department pursuant to Indiana law (IC § 6-8.1-5-1). These assessments were issued in August 2015. Taxpayer responded to these assessments in a letter dated September 2015 claiming that he was "in the process of assembling the paperwork in order to get it filed . . . ." Taxpayer again mailed the Department a letter in December, 2015 reiterating that he was working on getting amended returns to the Department.

In January of 2016 the Department acknowledged Taxpayer's letters as a protest of the proposed assessments and scheduled a hearing for April 2016. In April 2016, Taxpayer waived the hearing explaining that he was working on getting returns filed for the 2010 - 2013 tax years. Though Taxpayer was given ample time to file those returns, he did not. Taxpayer also failed to provide any additional supporting documentation to demonstrate that the assessments were incorrect. Thus, quite apart from the fact that Taxpayer acknowledges he needs to file the returns, the Department is not able to agree that Taxpayer has met his burden of proving the assessment is incorrect.

### **FINDING**

Taxpayer's protest is denied.

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