

Letter of Findings: 01-20170883
Individual Income Tax
For Tax Year 2016

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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Indiana Resident's entire State Taxable Income, not the amount apportioned to Indiana by Indiana Resident's employer, was subject to the local income tax.

ISSUE

I. Local Income Tax - Imposition.

Authority: IC § 6-8.1-5-1; IC § 6-3-2-1; IC § 6-3.5-6-1; IC § 6-3.5-6-23; IC § 6-3.5-1.1-1; *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2011); *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); Income Tax Information Bulletin 28 (November 2016); Income Tax Information Bulletin 32 (July 2007); IT-40 Full-Year Resident Individual Income Tax Booklet (2016).

Taxpayer protests the assessment of county income tax on his Indiana taxable income.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who filed a timely 2016 Indiana Full-Year Resident Individual Income Tax Return ("IT-40"). On his IT-40, Taxpayer reported "State Taxable Income" (Line 7 of the IT-40) of approximately \$90,000, but reported only \$14,000 of State Taxable Income on the County Tax Schedule ("CT-40"). As such, Taxpayer's IT-40, as filed, reported county tax of approximately \$250.

The Indiana Department of Revenue ("Department") increased the State Taxable Income on the CT-40 from \$14,000 to \$90,000. As a result, Taxpayer's county income tax increased to approximately \$1,600. The Department issued Taxpayer a bill for the increase and Taxpayer filed a timely protest. An administrative hearing was held and this Letter of Findings results. Additional facts will be provided as necessary.

I. Local Income Tax - Imposition.

DISCUSSION

Taxpayer filed a timely 2016 IT-40 and accompanying CT-40, however the State Taxable Income reported on the CT-40 was significantly lower than what was reported on the IT-40. The Department increased the State Taxable Income on the CT-40 to match that reported on the IT-40, resulting in an increase in Taxpayer's county tax.

Taxpayer argues that though Taxpayer lives in Indiana, "Due to the nature of [Taxpayer's] employment he works in several states throughout the year and his income is proportioned as such." Therefore, Taxpayer believes that the additional county tax was inappropriately assessed.

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 Dep't 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). Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to the 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). Thus, all interpretations of Indiana tax law contained within this decision, shall be entitled to deference.

Under IC § 6-3-2-1(a), Indiana imposes a tax "**upon 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." (**Emphasis added**). "Full-year Indiana residents must report all income that is reported for federal income tax purposes on their Indiana individual income tax return (IT-40). This includes all income, even if it is derived from sources outside Indiana." Income Tax Information Bulletin 28 (November 2016), 20161228 Ind. Reg. 045160560NRA. For county tax purposes "adjusted gross income" has the same definition as used for state tax purposes. IC § 6-3.5-6-1. Further, "If an individual is a resident of a county that adopts the county tax, his entire adjusted gross income will be subject to the county tax . . ." Income Tax Information Bulletin 32 (July 2007) 20070801 Ind. Reg. 045070440NRA. "A credit against county tax is available to taxpayers who are also subject to a local income tax in another state." *Id.* (See also IC § 6-3.5-6-23). The instructions for the 2016 CT-40 make it clear that the amount reported as "State Taxable Income" on Line 7 of the IT-40 is the amount that should be reported on Line 1 of the CT-40. The applicable county rate is applied to that amount to determine a taxpayer's county income tax liability.

Taxpayer claims that though he lives in Indiana, he works in several states throughout the year. His employer apportions his income to each state he works in. However, Taxpayer did not file any other state income tax returns in 2016. Taxpayer claims that his employer only withholds local income tax on the portion of Taxpayer's adjusted gross income earned in Indiana and that the income Taxpayer reported on his CT-40 is the amount reported as local wages on his 2016 Form W-2. Documentation provided by the Taxpayer supports the claim that his employer used an apportionment methodology on Taxpayer's Form W-2, but the fact remains that his CT-40, as filed, was incorrect. Had Taxpayer not been an Indiana resident, the amount of his adjusted gross income which would have been subject to Indiana's local income tax would be the amount "derived from his principal place of business or employment." IC § 6-3.5-6-1. However, as an Indiana resident, Taxpayer must report his entire adjusted gross income on the CT-40 and his entire adjusted gross income is subject to his county's tax rate; not the portion of income he earned in Indiana.

FINDING

Taxpayer's protest is denied.

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