

Letter of Findings: 01-20170984
Individual Income Tax
For the Year 2011 and 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Despite arguing that he was a "natural, sovereign, free-born person" who had not volunteered to pay Indiana income tax, the Department rejected Indiana Individual's arguments as unsupported by law or common sense.

ISSUE

I. Individual Income Tax - Imposition.

Authority: Ind. Const. art. X, § 8; IC § 6-3-1-3.5 et seq.; IC § 6-3-1-9; IC § 6-3-1-12; IC § 6-3-1-15; IC § 6-8.1-5-1(c); *New York v. Graves*, 300 U.S. 308 (1937); *McKeown v. Ott*, No. H 84-169, 1985 WL 11176 (N.D. Ind. Oct. 30, 1985); *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); *Richey v. Ind. Dept. of State Revenue*, 634 N.E.2d 1375 (Ind. Tax Ct. 1994); Black's Law Dictionary (7th ed. 1999).

Taxpayer argues he is not subject to Indiana's individual income tax because he is a "natural, sovereign, free-born person" who has not voluntarily subjected himself to either federal or state income taxes.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who filed neither 2011 nor 2012 Indiana income tax returns. The Indiana Department of Revenue ("Department") sent Taxpayer a letter requesting he either file the returns, send copies of any returns he had filed, or "send a letter that explains why [he was] not required to file" those returns.

Taxpayer responded arguing that he was not required to file returns or pay income taxes. The Department thereafter issued notices of "proposed assessment" based upon the "best information available." Taxpayer continued to disagree with the Department's decision and the proposed assessments.

An administrative hearing was conducted during which Taxpayer explained the basis for his position. This Letter of Findings addresses Taxpayer's various arguments.

I. Individual Income Tax - Imposition.

DISCUSSION

Taxpayer's protest letter and subsequent correspondence would seem to open a number of discussion possibilities. However, setting aside for the moment certain rarefied but ancillary issues, Taxpayer apparently predicates his protest on the presumption that the obligation to pay the Indiana Individual Income Tax requires the voluntary and formal acquiescence on the part of Taxpayer.

As a threshold issue, it is Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *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). 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).

Taxpayer fundamentally errs in his basic argument that payment of income taxes is voluntary. As set forth in the Indiana Constitution, "The general assembly may levy and collect a tax upon income, for whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law." Ind. Const. art. X, § 8. It should be assumed that the drafters of the Indiana Constitution chose their words with care and, in the quoted section above, selected the word "levy" to describe the relationship between the state, the state's income tax, and the state's taxpayers. When the constitutional provision gave the general assembly the right to "levy" an income tax, it did so with the notion that the state had the right to "impose or assess by legal authority" that tax. Black's Law Dictionary 919 (7th ed. 1999). In IC § 6-3-1-3.5 et seq., the general assembly exercised its constitutional prerogative by imposing the adjusted gross income on both individuals and corporations. In doing so it defined an "individual," subject to the adjusted gross income tax as "a natural born person, whether married or unmarried, adult or minor." IC § 6-3-1-9. Although the Indiana General Assembly has provided for numerous exemptions to the state's adjusted gross income tax, it is pointless to search for a statutory exemption covering those persons who decline to step forward and "voluntarily" submit themselves to the tax's imposition.

Taxpayer raises a threadbare argument which has been addressed in numerous jurisdictions and under numerous circumstances. In each case the argument has been definitely rebutted. "[A]rguments about who is a 'person' under the tax laws, the assertion that 'wages are not income', and maintaining that *payment of taxes is a purely voluntary function do not comport with common sense - let alone the law.*" *McKeown v. Ott*, No. H 84-169, 1985 WL 11176 at *2 (N.D. Ind. Oct. 30, 1985) (*Emphasis added*). Such arguments "have been clearly and repeatedly rejected by this and every other court to review them." *Id.* at *1. As stated in *Richey v. Ind. Dept. of State Revenue*, 634 N.E.2d 1375 (Ind. Tax Ct. 1994), "The constitutional legitimacy of the general assembly's decision to tax income is beyond dispute."

The right of the individual states to impose a tax on the income of its residents was addressed by the Supreme Court in *New York v. Graves*, 300 U.S. 308, 312-13 (1937). In that decision Justice Stone stated "[t]hat the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event is universally recognized. Domicil itself affords the basis for such taxation. Enjoyment of the privileges of residence in the state and the attendant right to invoke the protection of its laws *are inseparable from responsibility for sharing the costs of government. Taxes are what we pay for civilized society.*" (*Emphasis added*).

Given that Taxpayer had taxable income, is an "individual" as defined under IC § 6-3-1-9, was a resident of Indiana for the years at issue (IC § 6-3-1-12), is a "taxpayer" under Indiana law, (IC § 6-3-1-15), the statutes imposing the state's individual income tax are applicable to Taxpayer.

Taxpayer's argument that, absent his voluntary acquiescence, he is not subject to the state's individual income tax, does not comport with the law or with common sense.

Taxpayer sets out other objections to the proposed assessment such as accusations of governmental "racketeering," "treason," "slavery," the applicability of the "Inclusio unius est exclusio alterius" statutory construction principle, and the demand that Department employees complete a "Public Servant's Questionnaire." Notwithstanding Taxpayer's reliance on certain "historical," "legal," and Biblical authority (*Exodus 32:2*), the Department will not expend further resources attempting to discern or refute Taxpayer's arguments.

Taxpayer has not met his burden under IC § 6-8.1-5-1(c) of establishing that the Department's proposed assessments were wrong.

FINDING

Taxpayer's protest is denied.

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