

**Letter of Findings Number: 01-20171228  
Individual Income Tax  
For Tax Year 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individuals did not establish that the Department's proposed assessments were barred by the statute of limitations.

### ISSUE

#### I. Individual Income Tax—Federal Adjustments.

**Authority:** IC § 6-3-4-6; IC § 6-8.1-5-1; IC § 6-8.1-5-2; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *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); [45 IAC 15-5-7](#).

Taxpayers protest the imposition of Indiana individual income tax.

### STATEMENT OF FACTS

Taxpayers filed a 2013 Indiana tax return on the due date of April 16, 2014. On or around November 7, 2016, the Internal Revenue Service ("IRS") made adjustments to Taxpayers' federal adjusted gross income. Taxpayers did not notify the Department of the change or file an amended return with the Indiana Department of Revenue ("Department"). Upon learning of the adjusted federal return, the Department updated Taxpayer's 2013 Indiana return to reflect the federal changes. Proposed assessments were issued for the resulting increase in Indiana income tax plus penalty and interest. Taxpayers protested the proposed assessments. This Letter of Findings results. Further facts will be supplied as required.

#### I. Individual Income Tax—Federal Adjustments.

### DISCUSSION

Taxpayers protest the imposition of Indiana income tax for the tax year 2013. The Department received information from the IRS that Taxpayers' 2013 federal adjusted gross income was increased as a result of an IRS field examination. Taxpayers did not notify the Department of this increase, nor did they file an amended return. Therefore, on September 25, 2017, the Department issued proposed assessments for the resulting increase in Indiana income tax plus penalty and interest. Taxpayers believe that the Department is barred from making adjustments to 2013 by the statute of limitations and filed a protest to that effect. This argument is addressed below.

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). Consequently, 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). 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.'" *Dept. 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, as well as the preceding audit, shall be entitled to deference.

Taxpayers believe that the Department is barred by the statute of limitations from issuing proposed assessments for tax year 2013. In support of their position, Taxpayers refer to [45 IAC 15-5-7\(a\)](#) which reads:

Except as otherwise provided in [IC 6-8.1-5-2](#), the statute of limitations for the assessment of a listed tax liability is three (3) years from the due date of the annual return (including extensions of time granted by the department) or the date on which the annual return is filed for the tax year, whichever is later. If an extension of time is granted by the department, the statute of limitations shall begin to run on the day after the last day of the extension period.

IC § 6-8.1-5-2(i) states:

If a taxpayer's federal income tax liability for a taxable year is modified due to the assessment of a federal deficiency or the filing of an amended federal income tax return, then the date by which the department must issue a proposed assessment under section 1 of this chapter for tax imposed under [IC 6-3](#) is extended to six (6) months after the date on which the notice of modification is filed with the department by the taxpayer.

Further, under IC § 6-3-4-6(c):

"If [a] federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within one hundred twenty (120) days after the modification is made if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010."

Therefore, if a taxpayer's federal income tax liability is modified, the taxpayer must file an amended Indiana return with the Department within one hundred eighty days. Upon receipt of the amended return, the Department has six months to issue a proposed assessment. As explained above, the Department learned of the federal adjustments from information received from the IRS; Taxpayers did not file an amended Indiana return. Under IC § 6-8.1-5-2(i), the Department is allowed 180 days after notification to issue proposed assessments of Indiana tax resulting from a federal adjustment. Since no notice of federal modifications was filed with the Department, the statute of limitations provided under IC § 6-8.1-5-2(i) never went into effect and the proposed assessments are not barred. Taxpayers have not met the burden of proving the proposed assessments wrong, as required by IC § 6-8.1-5-1(c).

## FINDING

Taxpayer's protest is denied.

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