

**Letter of Findings: 01-20181699**  
**Individual Income Tax**  
**For the Tax Year 2015**

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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individuals failed to provide documentation supporting their position that the Department's proposed assessment of additional Indiana individual income tax was incorrect for the year at issue.

**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).

Taxpayers protest the imposition of Indiana individual income tax for tax year 2015.

**STATEMENT OF FACTS**

Husband and Wife ("Taxpayers") filed their 2015 Indiana tax return on April 17, 2016. On their return, Taxpayers owed the Indiana Department of Revenue ("Department") approximately \$230. Taxpayers remitted the amount due in June of 2016. In May of 2018, based on information from the Internal Revenue Service (IRS), the Department adjusted Taxpayers' 2015 return which resulted in additional tax due. The Department issued Taxpayers a proposed assessment for the increase, plus penalty and interest. Taxpayers protested the assessment and waived their right to a hearing. Thus, this Letter of Findings is based on the information available to the Department and provided in Taxpayers' protest file. Additional facts will be provided as necessary.

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

**DISCUSSION**

Due to an adjustment to Taxpayers' 2015 Federal income tax return, the Department adjusted Taxpayer's Indiana 2015 tax return, resulting in an increase to Taxpayers' tax liability. The Department assessed Taxpayers for the increase plus penalty and interest. Taxpayers protested the assessment but waived their right to a hearing.

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 May of 2018 the Department adjusted Taxpayers' 2015 Indiana income tax return based on information it received from the IRS. The Department then issued Taxpayers a proposed assessment as a result of the adjustment. Taxpayers protested the assessment in a letter dated June 11, 2018. In that letter, Taxpayers stated that they assume that the assessment is related to an exemption Wife takes on a child from a previous relationship. Taxpayers enclosed a Federal Form 8332 in which the child's father agreed not to claim an exemption for the child for tax year 2015. Taxpayers go on to state that they are amending their 2015 Federal returns to reflect this exemption. Taxpayers also submitted a "Protest Submission Form" in which they opted to forgo an administrative hearing.

The Department reviewed Taxpayers' protest and in a letter to Taxpayers dated July 25, 2018, informed Taxpayers that the assessment "is the result of a discrepancy between your Federal Adjusted Gross Income . . . amount compared to the amount indicated on line [one] of your Indiana state return." The letter went on to state that if Taxpayers disagree with the adjustment, they should provide a copy of their 2015 Federal Record of Account to the Department by August 24, 2018. The Department's letter also provided two means through which Taxpayers could obtain their Federal Record of Account. Taxpayers have failed to provide this documentation. Without this documentation, the Department cannot determine if it is the exemption that caused the discrepancy or something else, thus, the information regarding the exemption, while helpful, is not enough.

As stated above, it is the Taxpayers' burden to prove that the Department's assessment is incorrect. In doing so, Taxpayers are required to provide documentation to support their position. Without Taxpayers' Federal Record of Account, the Department cannot begin to determine whether or not Taxpayers' original return was correct. Thus, Taxpayers have failed to meet their burden under IC § 6-8.1-5-1(c). Taxpayers' protest is denied.

#### **FINDING**

Taxpayers' protest is denied.

November 26, 2018

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