

**Letter of Findings: 01-20181704**  
**Individual Income Tax**  
**For the 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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**

Indiana Individual failed to meet his statutory requirement of establishing that the Department erred in modifying his originally reported 2015 Indiana adjusted gross income to comport with his 2015 federal adjusted gross income; Individual erroneously filed a federal joint return with his wife but he and his wife filed separate state returns.

**ISSUE**

**I. Individual Income Tax - Federal Adjustment.**

**Authority:** IC § 6-3-1-3.5(a); IC § 6-3-2-1(a); IC § 6-3-2-2(a); IC § 6-3-4-4(d); IC § 6-8.1-5-1(c); I.R.C. § 62; *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).

Taxpayer argues that the Indiana Department of Revenue erred when it assessed Taxpayer additional Indiana income tax based on an adjustment made to comport with his federal income tax return.

**STATEMENT OF FACTS**

Taxpayer is an individual who filed a 2015 Indiana individual income tax return. On that Indiana return, Taxpayer reported receiving approximately \$30,000 in federal adjusted gross income. The Indiana Department of Revenue ("Department") received the return and, after reviewing the return, increased the income amount to approximately \$58,000. The Department's adjustment was based on information available from Taxpayer's federal 2015 return.

Taxpayer disagreed with the proposed assessment of additional income tax and submitted a protest to that effect.

The Department responded to Taxpayer's protest in a July 2018 letter. The letter explained:

The assessment being protested is the result of a discrepancy between your Federal Adjusted Gross Income (FAGI) amount compared to the amount indicated on line 1 of your Indiana state return. If you were a full year resident of Indiana, the Federal Adjusted Gross Income amount must match the amount of line 1 of your Indiana state return.

The July letter suggested that Taxpayer submit a copy of another state's return in which the \$28,000 in additional income was reported or provide a copy of the Federal Record of Account reconciling the apparent discrepancy.

Taxpayer did not provide a copy of either of the requested documents. Instead Taxpayer explained:

[Taxpayer] dispute[s] the assessment of my individual income tax period ending Dec. 31 2015. The reason being is that my Indiana tax differs from my federal AGI is because I live[d] in Indiana and my wife [] live[d] in Alabama. We filed federal taxes married filing jointly and then we filed each state married filing separately.

An administrative hearing was conducted by telephone during which Taxpayer explained the basis for his protest. This Letter of Findings results.

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**I. Individual Income Tax - Federal Adjustment.**

**DISCUSSION**

Taxpayer argues that the federal adjusted gross income reported on his original 2015 return (\$30,000) was correct and that the Department erred in adjusting that amount to \$58,000. As a result, Taxpayer concludes that the resulting assessment of additional tax - approximately \$1,500 - is unjustified.

As a threshold issue, it is the Taxpayer's responsibility to establish that the \$400 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).

Thus, any taxpayer challenging an assessment 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).

Indiana imposes a tax "on 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." IC § 6-3-2-1(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 file their federal income tax returns as required pursuant to the Internal Revenue Code. In computing what is considered the taxpayers' Indiana income tax, IC § 6-3-1-3.5(a) refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) states that - with certain modifications specific to Indiana law - I.R.C. § 62 defines "adjusted gross income" for Indiana taxpayers.

In this case, the Department modified the adjusted gross income reported on Taxpayer's 2015 Indiana return (\$30,000) to comport with the amount calculated on his federal return (\$58,000). In response, Taxpayer argues that although he and his wife filed a joint federal return, they filed two individual state returns correctly reporting their respective income amounts.

Taxpayer erred in reporting his 2015 Indiana income tax. IC § 6-3-4-4(d) requires as follows:

Where a joint return is made by a husband and wife pursuant to the Internal Revenue Code, a joint return *shall be made* pursuant to this article. Where a joint return is filed by a husband and wife hereunder, one spouse shall have no liability for the tax imposed by this article upon the income of the other spouse.

*(Emphasis added).*

Taxpayer has failed to meet his statutory burden under IC § 6-8.1-5-1(c) of establishing that the proposed assessment was "wrong." Taxpayer erroneously filed a 2015 joint federal return and separate state income returns reporting his and his wife's income. Nonetheless, Taxpayer can correct the error by filing a 2015 IT-40PNR ("Part-Year and Full-Year Nonresident") return. As the directions for this return explain, the IT-40PNR return is intended for persons who "[a]re filing jointly and one was a full-year Indiana resident and the other was not a full-year Indiana resident . . . ." Taxpayer is advised to file the return within 30 days of the date this Letter of Findings is issued.

**FINDING**

Taxpayer's protest is respectfully denied.

October 17, 2018

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