

**Letter of Findings: 01-20181605
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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Husband and Wife 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

Taxpayers ("Husband and Wife") filed their 2015 Indiana tax return timely. Taxpayers however filed an amended return on March 16, 2017, to reflect a retirement rollover. On the return, Taxpayers claimed their Adjusted Gross Income ("AGI") to be \$39,004. In May of 2018, based on information from the Internal Revenue Service (IRS), the Indiana Department of Revenue ("Department") adjusted Taxpayers' 2015 return which resulted in a decrease in Taxpayers' refund. The Department issued Taxpayers a proposed assessment for the amount of the decrease, 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 a federal adjustment to Taxpayers' 2015 income tax return, the Department adjusted Taxpayers' Indiana 2015 tax return, resulting in a decrease in the refund due to the Taxpayers. The Department assessed Taxpayers for the amount of the decrease 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 and provided copies of their 2015 Indiana individual income tax return, W-2s, and other relevant tax forms. Taxpayers also submitted a "Protest Submission Form" in which they opted to forgo an administrative hearing. In their protest letter, Taxpayers stated that "[Husband's] original [AGI] was inflated well beyond the actual number. On March 16, 2017 my CPA firm, [] filed an amended 1040X tax return on my behalf addressing this oversight. Upon receipt of my amended return, this was resolved." Taxpayers went on to state that the discrepancy is based on the originally filed return, not the amended return. Taxpayers provided a copy of the original and amended 1040.

The Department reviewed Taxpayers' protest and in a letter to Taxpayers dated July 13, 2018, informed Taxpayers that the assessment "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." The letter went on to state that if Taxpayers disagree with the adjustment, they should provide a copy of their Federal Record of Account to the Department by August 14, 2018. The Department's letter also provided two means through which Taxpayers could obtain their Federal Record of Account. Taxpayers failed to provide this documentation.

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

FINDING

Taxpayers' protest is denied.

December 10, 2018

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