

**Letter of Findings: 01-20181737
Individual Income Tax
For the Year 2015**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 requires 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual was unable to provide sufficient reason to validate the number of personal exemptions claimed on his Indiana income tax return. Therefore, the assessment remains as initially issued.

ISSUES

I. Individual Income Tax–Personal Exemption.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; IC § 6-8.1-5-2; *Indiana 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*, 897 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer protests the imposition of Indiana income tax.

II. Tax Administration–Penalty.

Authority: IC § 6-8.1-10-2.1; [45 IAC 15-11-2](#).

Taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

Taxpayer is an individual who resides in Indiana to attend college. Taxpayer timely filed his 2015 Indiana income tax return, claiming a refund. The Department issued the refund as claimed. In 2018, as the result of an exchange of information with the Internal Revenue Service ("IRS"), the Indiana Department of Revenue ("Department") determined that Taxpayer claimed more personal exemptions on his 2015 Indiana state income tax return than he claimed on his 2015 federal income tax return. The Department therefore reduced the number of personal exemptions on Taxpayer's 2015 Indiana income tax return to match the number claimed on his 2015 federal income tax return. This reduction in exemptions resulted in additional Indiana income tax due for 2015. The Department therefore issued a proposed assessment for income tax to recover the previously issued refund, plus penalty and interest. Taxpayer protested the assessment of income tax and penalty. An administrative hearing was conducted and this Letter of Findings results. Further facts will be supplied as required.

I. Individual Income Tax–Personal Exemption.

DISCUSSION

Taxpayer protests the imposition of additional Indiana income tax for the tax year 2015. The Department based its determination that additional tax was due on the grounds that Taxpayer claimed one personal exemption on his federal income tax return for 2015, but claimed four personal exemptions on his Indiana income tax return for that year. Taxpayer protests that he is a student at a university located in Indiana and that the university provided assistance with preparing his federal return, but did not provide assistance in preparing his Indiana return.

As a threshold issue, it is the 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 [D]epartment'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 Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E. 2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 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. 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.

IC § 6-3-2-1(a) states:

(a) Each taxable year, a tax at the following rate of adjusted gross income is imposed upon 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:

- (1) For taxable years beginning before January 1, 2015, three and four-tenths percent (3.4[percent]).
- (2) For taxable years beginning after December 31, 2014, and before January 1, 2017, three and three-tenths percent (3.3[percent]).
- (3) For taxable years beginning after December 31, 2016, three and twenty-three hundredths percent (3.23[percent]).

Next, IC § 6-3-1-3.5 provides in relevant part:

When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (3) *Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).*

....
(*Emphasis added*).

Finally, IC § 6-8.1-5-2(g) states:

If any part of a listed tax has been erroneously refunded by the department, the erroneous refund may be recovered through the assessment procedures established in this chapter. An assessment issued for an erroneous refund must be issued:

- (1) within two (2) years after making the refund; or
- (2) within five (5) years after making the refund if the refund was induced by fraud or misrepresentation.

Taxpayer explains that he was eligible for a \$4,000 exemption on his federal return. When filing his Indiana return, Taxpayer believed that he was allowed to claim the same amount of \$4,000 as a personal exemption. Since Indiana only allows a \$1,000 personal exemption, as provided by IC § 6-3-1-3.5(a)(3), Taxpayer listed four exemptions to reach the same \$4,000 amount of credit claimed on his federal return.

The Department takes this opportunity to clarify that the \$4,000 which Taxpayer listed on his federal return is not the same thing that he was claiming on his Indiana return. The Indiana exemption is established under IC § 6-3-1-3.5(a)(3). The \$1,000 amount of the Indiana exemption is all that is provided on an Indiana income tax return. Therefore, if you claim one personal exemption at the federal level, you should claim one personal exemption at the Indiana level as well. That personal exemption will be in the amount of \$1,000, as provided by IC § 6-3-1-3.5(a)(3). Taxpayer incorrectly multiplied the Indiana exemption to match the amount of the federal exemption. As provided by IC § 6-8.1-5-2(g), the Department correctly issued an assessment to recover the erroneous refund issued to Taxpayer for 2015. Taxpayer has not met the burden of proving the proposed assessment wrong, as required by IC § 6-8.1-5-1(c).

FINDING

Taxpayer's protest is denied.

II. Tax Administration–Penalty.

DISCUSSION

Taxpayer requested that the Department abate the negligence penalty. Pursuant to IC § 6-8.1-10-2.1(a), the Department may assess a negligence penalty if the taxpayer:

- (1) fails to file a return for any of the listed taxes;
- (2) fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment;
- (3) *incurs, upon examination by the department, a deficiency that is due to negligence;*
- (4) fails to timely remit any tax held in trust for the state; or
- (5) is required to make a payment by electronic funds transfer (as defined in [IC 4-8.1-2-7](#)), overnight courier, or personal delivery and the payment is not received by the department by the due date in funds acceptable to the department.
(*Emphasis added*).

[45 IAC 15-11-2](#)(b) further states:

"Negligence" on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The Department may waive a negligence penalty when a taxpayer establishes that its failure to pay a tax was due to reasonable cause and not due to negligence. [45 IAC 15-11-2](#)(c). The taxpayer must demonstrate that it exercised ordinary business care in carrying out or failing to carry out a duty giving rise to the penalty. Reasonable cause is fact sensitive and will vary based on the facts of each individual case.

In this instance, Taxpayer was a first-time filer and has demonstrated that his actions were reasonable as described in [45 IAC 15-11-2](#)(c). The Department notes that waiver of penalty may not be warranted if this situation occurs in the future.

FINDING

Taxpayer's protest of the negligence penalty is sustained.

SUMMARY

Taxpayer is denied on Issue I regarding the imposition of income tax. Taxpayer is sustained on Issue II regarding the imposition of penalty.

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