

**Letter of Findings: 01-20182135
Indiana Individual Income Tax
For The Tax Year 2017**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual filed an Indiana IT-40 claiming more credits on his Schedule 6 than what is allowed. Taxpayer filed an amended return to fix the credit error, but claimed that zero tax is owed, even though he was an Indiana resident. The Department cannot verify that Individual's return is correct; therefore, Individual's protest is denied.

ISSUE

I. Income Tax—Burden of Proof Assessment Incorrect.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-8.1-5-1; *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); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009).

Taxpayer protest the Department's assessments of individual income tax for 2017.

STATEMENT OF FACTS

Taxpayer filed his 2017 Indiana IT-40 timely. The Indiana Department of Revenue ("Department") determined that Taxpayer took too much in credits and adjusted Taxpayer's return to reflect the Department's records.

The Department issued Taxpayer a proposed assessment for the amount of the decrease, plus penalty and interest. Taxpayer protested the assessment and waived his right to a hearing. Thus, this Letter of Findings is based on the information available to the Department and provided in Taxpayer's protest file. Additional facts will be provided as necessary.

I. Income Tax—Burden of Proof Assessment Incorrect.

DISCUSSION

The Department, based on verifiable information including Indiana real property records, found that Taxpayer misstated offsetting credits taken on schedule 6 of his 2017 Indiana income tax return. The Department determined that Taxpayer miscalculated these offsetting credits.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's assessment 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 "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." 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. The presumption is that taxpayers file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayers' 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 taxpayers' taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In this instance, Taxpayer filed an Indiana IT-40 claiming more credits on his Schedule 6 than what is allowed. Taxpayer filed an amended return to fix the credit error, but claimed that zero tax is owed, even though he was an Indiana resident. In addition, Taxpayer only provided the first two pages of the amended IT-40X; he did not provide any other schedules or a full amended return to reflect additional tax due. Taxpayer has not provided sufficient documentation or evidence to show that the Department's adjustment of credits would result in zero tax liability. Thus, Taxpayer did not meet his burden as described in IC § 6-8.1-5-1(c).

FINDING

Taxpayer's protest is denied.
December 18, 2018

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