

**Letter of Findings: 01-20182284
Indiana 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individuals were responsible for additional Indiana income tax for the 2015 tax year because, after a cross-reference examination with the federal information, the information reflected that Individuals had a higher adjusted gross income.

ISSUE

I. Indiana Individual Income Tax - Federal Adjustment.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; 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); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *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 Department's assessment of individual income tax for 2015.

STATEMENT OF FACTS

Taxpayers (Husband and Wife) are Indiana residents who filed their 2015 Indiana Full-Year Resident Individual Income Tax Return ("IT-40 Form") in June 2017. In Line 1 of their joint return, IT-40 Form, Taxpayers reported approximately \$114,000 federal adjusted gross income. Taxpayers were assessed penalty and interest because their filing was not timely. Taxpayers paid accordingly.

In September 2018, the Indiana Department of Revenue ("Department") cross-referenced information in its records with the federal information maintained by the Internal Revenue Service ("IRS"). The Department determined that, for the 2015 tax year, Taxpayers had an additional \$14,440 in federal adjusted gross income than what was reported in their 2015 return, IT-40 Form. The Department concluded that Taxpayers owed additional Indiana and county income tax and, as a result, assessed Taxpayers additional income tax, penalty, and interest.

Taxpayers timely protested the assessment. Taxpayers requested that the Department make the determination without an administrative hearing. This Letter of Findings ensues and addresses Taxpayers' protest of the proposed assessment. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Federal Adjustment.

DISCUSSION

Pursuant to the cross-reference of the federal information, the Department determined that Taxpayers had an additional \$14,440 in federal adjusted gross income than what was reported on their 2015 return. As a result, the Department assessed Taxpayers additional income tax, penalty, and interest. Taxpayers disagreed, arguing that they correctly reported their federal adjusted gross income and were not responsible for the additional income tax.

The issue thus is whether Taxpayers demonstrated that they correctly filed their Indiana return reporting their adjusted gross income subject to Indiana and local income tax.

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 their 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 "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). To efficiently and effectively compute what is considered the resident/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 his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this instance, during the initial cross-reference examination the Department determined that Taxpayers had an additional \$14,440 in federal adjusted gross income than what was reported in their return. The Department thus adjusted Taxpayers' federal adjusted gross income to comport with the Department's record.

Taxpayers disagreed. Taxpayers further obtained a verifiable copy of their Record of Account from the IRS as requested by the Department, to support their protest.

Upon review, however, Taxpayers are mistaken. Taxpayers, in this instance, initially filed and reported approximately \$114,000 federal adjusted gross income in their 2015 joint federal return (Form 1040). Taxpayers' supporting document, however, demonstrated that, on July 21, 2017, the IRS was reviewing "unreported income" of Taxpayers. The IRS subsequently determined that Taxpayers had "unreported income" and, accordingly, assessed additional tax, in the amount of \$5,105 - in addition to penalty and interest - on July 24, 2017.

In other words, because the IRS determined that Taxpayers had additional income which was not reported when Taxpayers filed their 2015 joint return, the IRS adjusted Taxpayers' filing to comport with its record. That IRS adjustment increased the amount of Taxpayers' federal adjusted gross income, which, in turn, increased the amount of the Line 1 of Taxpayers' Indiana return, Form IT-40. Taxpayers had higher federal adjusted gross income than the amount stated in their federal and Indiana returns. *In the absence of other verifiable supporting document to substantiate that Taxpayers correctly reported their federal adjusted gross income*, the Department is not able to agree that Taxpayers met their burden of demonstrating that the assessment was wrong. The Department correctly adjusted the Line 1 of Taxpayers' IT-40 to comport with the IRS record and properly assessed Taxpayers additional income tax, penalty, and interest.

In short, given the totality of the circumstances, Taxpayers had additional income subject to Indiana and local income tax.

FINDING

Taxpayers' protest is respectfully denied.

January 28, 2019

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