

**Letter of Findings: 01-20182297  
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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual failed to provide documentation supporting his 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).

Taxpayer protests the imposition of Indiana individual income tax for tax year 2015.

### STATEMENT OF FACTS

Taxpayer filed his 2015 Indiana tax return on January 27, 2016. On his return, Taxpayer claimed a refund due of approximately \$100. That refund was issued to Taxpayer in February of 2016. In August of 2018, based on information from the Internal Revenue Service (IRS), the Indiana Department of Revenue ("Department") adjusted Taxpayer's 2015 return which resulted in a tax liability. The Department issued Taxpayer a proposed assessment for the amount of the liability, 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

Due to an adjustment to Taxpayer's 2015 Federal income tax return, the Department adjusted Taxpayer's Indiana 2015 tax return, resulting in a tax liability. The Department assessed Taxpayer for the amount of the liability plus penalty and interest. Taxpayer protested the assessment but waived his 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 Dep't. 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 August of 2018 the Department adjusted Taxpayer's 2015 Indiana income tax return based on information it received from the IRS. The Department then issued Taxpayer a proposed assessment as a result of the adjustment. Taxpayer protested the assessment and provided copies of his original 2015 Federal income tax return and his original 2015 Indiana income tax return. In the accompanying letter, Taxpayer stated that "I'm not understanding where the difference is coming from as I only worked for one company and all the proper[] taxes were withheld and paid." Taxpayer also submitted a "Protest Submission Form" in which he opted to forgo an administrative hearing.

The Department reviewed Taxpayer's protest and in a letter to Taxpayer dated November 9, 2018, informed Taxpayer that the assessment "is the result of a discrepancy between your Federal Adjusted Gross Income (FAGI) amount compared to the amount indicated on line [one] of your Indiana state return." The letter went on to state that if Taxpayer disagrees with the adjustment, he should provide a copy of his 2015 Federal Record of Account to the Department by December 14, 2018. The Department's letter also provided two means through which Taxpayer could obtain his Federal Record of Account. Taxpayer provide that documentation to the Department on November 14, 2018. The documentation showed that the IRS increased Taxpayer's 2015 Federal Adjusted Gross Income, but did not explain why. Because the Department uses a taxpayer's Federal Adjusted Gross Income as the starting point for Indiana taxes, without further documentation, the Department cannot sustain Taxpayer's protest.

Because the Department cannot sustain Taxpayer, he must pay his assessment. However, Taxpayer has filed an amended return with the IRS. If that return is accepted and Taxpayer's assessment changes, he is welcome to file a form GA-110L to request a refund of that payment.

### **FINDING**

Taxpayer's protest is denied.

January 29, 2019

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