

**Supplemental Letter of Findings: 01-20182348
Individual Income Tax
For the 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Supplemental Letter of Findings.

HOLDING

Indiana Individuals failed to meet their statutory requirement of establishing that the Department erred in modifying their originally reported 2015 Indiana adjusted gross income tax to comport with the amount of withholding credits reflected on their W2s.

ISSUE

I. Individual Income Tax - Adjustment.

Authority: IC § 6-3-1-3.5(a); IC § 6-3-2-1(a); IC § 6-3-2-2(a); IC § 6-8.1-5-1(c); I.R.C. § 62; *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *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); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayers argue that the Indiana Department of Revenue erred when it assessed Taxpayers additional Indiana income tax based upon an adjustment to their amended Indiana income tax return.

STATEMENT OF FACTS

Husband and Wife Taxpayers filed a 2015 amended joint Indiana income tax return. The Indiana Department of Revenue ("Department") reviewed Taxpayers' amended return and found that Taxpayers owed additional Indiana income tax. The Department issued Taxpayers a notice of proposed assessment. Taxpayers disagreed with the assessment and submitted a protest to that effect. An administrative hearing was scheduled September 2018. However, Taxpayers did not participate in the September hearing. As is the Department policy, the protest was closed. Taxpayers requested and were granted a rehearing. That administrative hearing was scheduled, Taxpayers took part in the rehearing, and this Supplemental Letter of Findings results.

I. Individual Income Tax - Adjustment.

DISCUSSION

On their 2015 amended return, Taxpayers claimed credits for state tax withheld on their behalf. Taxpayers claimed approximately \$4,200 in state tax withheld and approximately \$3,500 in county tax withheld. In total, Taxpayers claimed an approximately \$7,700 in total credits against their calculated tax liability. In reviewing Taxpayers' W2s, the Department found that the amount indicated on those W2s was approximately \$3,200 in state tax withheld and approximately \$2,600 in county tax withheld. In total, Taxpayers' W2s indicated that Taxpayers were entitled to a credit of approximately \$5,800.

The Department found that there was a "discrepancy" between the credit amounts claimed on their amended return and the credit amounts Taxpayers' W2s indicated they were entitled to claim. Reconciling the credit amounts reported on their return with the actual available tax credits resulted in the assessment of additional tax.

As a threshold issue, it is the Taxpayer's responsibility to establish that the \$400 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 department'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 Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867

Thus, any taxpayer challenging an assessment is required to provide documentation explaining and supporting his or her 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. 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). 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 file their federal income tax returns as required pursuant to the Internal Revenue Code. In computing what is considered the taxpayers' Indiana income tax, IC § 6-3-1-3.5(a) refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) states that - with certain modifications specific to Indiana law - I.R.C. § 62 defines "adjusted gross income" for Indiana taxpayers.

Taxpayers have provided no additional information establishing that the Department's assessment was incorrect and have failed to meet their statutory requirement - common to any Indiana assessment - of establishing that the assessment of additional income tax was "wrong." IC § 6-8.1-5-1(c).

FINDING

Taxpayers' protest is respectfully denied.

January 8, 2019

Posted: 03/27/2019 by Legislative Services Agency
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