

**Letter of Findings: 01-20182338
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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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-Federal Discrepancy Assessment.

Authority: 11 U.S.C. § 523 (*as in effect in 2015*); 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 February 13, 2016. On his return, Taxpayer claimed a refund of \$49, which the Indiana Department of Revenue ("Department") remitted in February of 2016. In September of 2018, based on information from the Internal Revenue Service (IRS), the Department adjusted Taxpayer's 2015 return which resulted in additional tax liability. The Department issued Taxpayer a proposed assessment for the increase in base tax, 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- Federal Discrepancy Assessment.

DISCUSSION

Due to an adjustment to Taxpayer's 2015 Federal income tax return, the Department adjusted Taxpayer's Indiana 2015 tax return, resulting in additional tax liability. The Department assessed Taxpayer for 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 Dept. 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 September 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. On November 16, 2018, Taxpayer filed a protest of the assessment. Along with the protest letter, Taxpayer submitted a "Protest Submission Form" in which he opted to forgo an administrative hearing. In his protest letter, Taxpayer stated that he is "currently on disability and had earlier this year filed bankruptcy." Taxpayer provided proof that on October 31, 2017, he filed for Chapter 7 Bankruptcy.

The Department mailed Taxpayer a letter, also dated November 16, 2018, stating that the 2015 assessment "is the result of a discrepancy between your Federal Adjusted Gross Income (FAGI) amount compared to the amount indicated on line 1 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 Transcript to the Department by December 17, 2018. The Department's letter also provided two means through which Taxpayer could obtain his Federal Record of Account Transcript.

Taxpayer has failed to provide his 2015 Federal Record of Account Transcript. Further, the Department reviewed Taxpayer's bankruptcy and discovered that his bankruptcy was discharged on February 6, 2018; seven months before the proposed assessment was issued. Under bankruptcy law, such a discharge does *not* exempt a Taxpayer from outstanding tax liabilities. 11 U.S.C. § 523(a)(1)(A) (*as in effect in 2015*). Thus, Taxpayer's 2015 tax liability was not affected by his bankruptcy.

As stated above, it is the Taxpayer's burden to prove that the Department's assessment is incorrect. In doing so, the Taxpayer is required to provide documentation to support his position. Without Taxpayer's Federal Record of Account Transcript, the Department cannot begin to determine whether or not Taxpayer's original return was correct, as argued by Taxpayer. Thus, Taxpayer has failed to meet his burden under IC § 6-8.1-5-1(c). Taxpayer's protest is denied.

FINDING

Taxpayer's protest is denied.

February 21, 2019

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