

**Letter of Findings: 01-20182317
Individual Income Tax
For the Year 2015**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 requires 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 did not provide any documentation in support of her protest and so did not prove the proposed assessment wrong. The protest is therefore denied.

ISSUE

I. Individual Income Tax–Taxable Income.

Authority: IC § 6-3-2-1; IC § 6-8.1-5-1; *Indiana Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 N.E.2d 289 (Ind. Tax Ct. 2007); *Wendt LLP v. Indiana Dept. of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); State Form 56317.

Taxpayer protests the imposition of additional Indiana income tax income.

STATEMENT OF FACTS

Taxpayer is an individual Indiana resident. After receiving information from the federal government regarding the amount reported to it as Taxpayer's taxable income for 2015, the Indiana Department of Revenue ("Department") determined that there was a discrepancy between the amount of income reported to the federal government and the amount of income reported to Indiana for that year. The Department therefore issued a proposed assessment for additional Indiana income tax, penalty, and interest. Taxpayer filed a protest with the Protest Submission Form (State Form 56317) and selected the option to have her protest determined without an administrative hearing. This Letter of Findings is therefore written based on the information in the protest file. Further facts will be supplied as required.

I. Individual Income Tax–Taxable Income.

DISCUSSION

Taxpayer protests the imposition of additional Indiana income tax for the tax year 2015. The Department based its determination that additional income tax was due for that year after receiving information from the Internal Revenue Service ("IRS") regarding Taxpayer's reported federal income. The Department determined that the two amounts did not match, with Indiana being underreported. The Department issued a proposed assessment to account for the additional income. In a letter received by the Department on November 14, 2018, Taxpayer protested the assessment but did not provide any explanation for the discrepancy. Rather, Taxpayer requested that the Department provide calculations to show how it arrived at its conclusion that additional taxes were due.

The Department responded in a letter dated November 14, 2018 that it had received information from the federal government and had calculated the additional Indiana income tax based on that information. The Department also informed Taxpayer that she could obtain a "Federal Record of Account Transcript", which would provide verification of the amount of income reported to the federal government. The Department allowed until December 19, 2018 for Taxpayer to send in that federal document. The Department did not receive any documentation by that deadline.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing 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

[D]epartment'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 Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E. 2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

IC § 6-3-2-1(a) states:

(a) Each taxable year, a tax at the following rate of adjusted gross income is imposed 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:

(1) For taxable years beginning before January 1, 2015, three and four-tenths percent (3.4[percent]).

(2) For taxable years beginning after December 31, 2014, and before January 1, 2017, three and three-tenths percent (3.3[percent]).

(3) For taxable years beginning after December 31, 2016, three and twenty-three hundredths percent (3.23[percent]).

In this case, Taxpayer has not presented a sufficiently developed argument for the Department to address. See *Wendt LLP v. Indiana Dept. of State Revenue*, 977 N.E.2d 480, 485 n.9, (Ind. Tax Ct. 2012) (stating in a footnote parenthetical "that poorly developed and non-cogent arguments are subject to waiver" by the Indiana Tax Court) (citing *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax. Ct. 2010)). Therefore, Taxpayer has not met the burden imposed under IC § 6-8.1-5-1(c) of proving the proposed assessment wrong.

FINDING

Taxpayers' protest is denied.

February 27, 2019

Posted: 04/24/2019 by Legislative Services Agency

An [html](#) version of this document.