

Letter of Findings: 01-20181206
Individual Income Tax
For the Year 2013

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual was required to file her 2013 Indiana IT-40 due to the Indiana requirement that cancellation of debt be added back to Indiana adjusted gross income.

ISSUE

I. Individual Income Tax - Indiana Source Income.

Authority: I.R.C. § 108; IC § 6-3-1-3.5; IC § 6-8.1-5-1; *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 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).

Taxpayer argues that she was not required to file a 2013 Indiana income tax return because she did not have Indiana source income that year.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. The Indiana Department of Revenue ("Department") determined that Taxpayer did not file an Indiana 2013 individual income tax return. The Department then proceeded to issue Taxpayer a proposed assessment of 2013 Indiana income tax.

Taxpayer disagreed and submitted a protest to that effect. An administrative hearing was conducted, during which Taxpayer explained the basis for the protest. Further facts will be supplied as required.

I. Individual Income Tax - Indiana Source Income.

DISCUSSION

The issue is whether Taxpayer received Indiana source income during 2013 and was required to file an Indiana return reporting that income. Taxpayer argues that she did not make enough money to file income taxes for either Federal or Indiana purposes during 2013. Furthermore, she stated that she did settle with her mortgage company but did not receive any money from them, but rather she received a cancellation of debt. Taxpayer states that since the money was not an actual payment of money to her she does not owe taxes on it.

Taxpayer currently lives in Indiana. The Department assessed Taxpayer additional income tax based on the "best information available" on the ground that Taxpayer received income reportable on the Indiana return.

All tax assessments are prima facie evidence that the Department's claim for the tax is valid, and each 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. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Thus, a taxpayer 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). In reviewing a taxpayer's argument, the Indiana Supreme Court has held, that when it examines a statute

that an agency is "charged with enforcing . . . we defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party." *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Indiana imposes an income tax "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." IC § 6-3-2-1(a).

Taxpayer explains she was not required to file a 2013 return because her only income that year consisted of "Cancellation of Debt Income" documented on a form 1099C ("cancellation of debt") and that she had no other income that year.

I.R.C. § 108, for the year at issue, provides rules on income from discharge of indebtedness.

(a) Exclusion from gross income.--

(1) In general.--Gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if--

- (A) the discharge occurs in a title 11 case,
- (B) the discharge occurs when the taxpayer is insolvent,
- (C) the indebtedness discharged is qualified farm indebtedness,
- (D) in the case of a taxpayer other than a C corporation, the indebtedness discharged is qualified real property business indebtedness, or
- (E) the indebtedness discharged is qualified principal residence indebtedness which is discharged--
 - (i) before January 1, 2014, or
 - (ii) subject to an arrangement that is entered into and evidenced in writing before January 1, 2014.

However, Indiana has a different rule and requires the canceled debt excluded from income be added back for Indiana income tax purposes. IC § 6-3-1-3.5(a). Indiana requires taxpayers to "Add the amount excluded from gross income under Section 108(a)(1)(e) of the Internal Revenue Code for the discharge of debt on a qualified principal residence." IC §6-3-1-3.5(a)(25).

Taxpayer received a cancellation of debt as described in I.R.C. § 108. Pursuant to IC § 6-3-1-3.5(a) she was required to add back the amount excluded to her Indiana adjusted gross income. Therefore Taxpayer was required to file an Indiana IT-40 for 2013. Taxpayer has not met her burden under IC § 6-8.1-5-1(c).

FINDING

Taxpayer's protest is respectfully denied.

April 30, 2019

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