

Letter of Findings: 01-20182266
Indiana 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 responsible for additional Indiana income tax for the 2015 tax year because after a cross-reference examination with the federal information, the federal information reflected that Individual had a higher adjusted gross income.

ISSUE

I. Indiana Individual Income Tax - Burden of Proof.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *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); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *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 Department's assessment of individual income tax for 2015.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who timely filed her 2015 Indiana Full-Year Resident Individual Income Tax Return (IT-40 Form) and received a tax refund in 2016.

In 2018, the Indiana Department of Revenue ("Department") cross-referenced information in its records with the federal information maintained by the Internal Revenue Service ("IRS"). The Department determined that, for the 2015 tax year, Taxpayer had an approximately additional \$24,500 in federal adjusted gross income than what was reported in her 2015 return, IT-40 Form. The Department concluded that Taxpayer owed additional Indiana and county income tax and, as a result, assessed Taxpayer additional income tax, penalty, and interest.

Taxpayer submitted supporting documents - including copies of her 2015 Form 1040A and W-2 statements - to protest the Department's assessment. In addition, Taxpayer requested that the Department make the determination without an administrative hearing. Taxpayer was asked to provide the IRS Record of Account by December 13, 2018. After the December 2018 due date, however, Taxpayer did not provide any additional supporting documentation or the IRS Record of Account to support her protest.

As a result, this Letter of Findings ensues and is based on the documents initially submitted and information within the Department's records. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Burden of Proof.

DISCUSSION

Pursuant to the cross-reference of the federal information, the Department determined that Taxpayer had an additional \$24,500 in federal adjusted gross income than what was reported on her 2015 return, IT-40 Form. As a result, the Department assessed Taxpayer additional income tax, penalty, and interest. Taxpayer objected to the Department's assessment.

The issue thus is whether Taxpayer demonstrated that she correctly filed her Indiana return reporting her adjusted

gross income subject to Indiana and local income tax.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's assessment 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). To efficiently and effectively compute what is considered the resident/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 his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this instance, during the initial cross-reference examination, the Department found that Taxpayer had an additional \$24,500 in federal adjusted gross income than what was reported in her 2015 return, IT-40 Form. The Department thus adjusted Taxpayer's federal adjusted gross income to comport with the IRS record.

Claiming that she should not be held responsible for the additional tax, Taxpayer argued, in part:

At the time of this tax period I was 19 years old . . . and . . . I entrusted the help of a family friend to help me file my taxes that year. Their assistance resulted in obvious errors in the tax information provided, which is causing me to correct them now. . . .

Upon review, however, the Department is not able to agree. Specifically, Taxpayer was required to file her 2015 return on or before the due date. Whether Taxpayer entrusted a family friend to do so is beyond the scope of this protest. In particular, Taxpayer acknowledged that she had errors on her 2015 return, IT-40 Form. Thus, *in the absence of verifiable supporting document to substantiate that Taxpayer correctly reported her federal adjusted gross income*, the Department is not able to agree that Taxpayer met her burden of demonstrating that the assessment was wrong. The Department correctly assessed Taxpayer additional income tax pursuant to the Department's record - the federal information maintained by the IRS. Pursuant to IC § 6-8.1-5-1(c), the Department's assessment is presumed to be correct because Taxpayer failed to meet her burden of demonstrating that the assessment was wrong.

In short, given the totality of the circumstances, in the absence of the verifiable supporting document for 2015 to demonstrate otherwise, Taxpayer remains responsible for the additional income tax assessed.

FINDING

Taxpayer's protest is respectfully denied.

March 28, 2019

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