

**Letter of Findings: 01-20182217
Indiana Individual Income Tax
For The Tax 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 did not provide any documentation or argument to support that he was not required to file an Indiana 2013 income tax return. Thus, the Department was correct in its assessment of income tax.

ISSUE

I. Indiana Individual Income Tax - Non-filer - Residency.

Authority: IC § 6-3-1-3.5; IC § 6-3-1-12; IC § 6-3-1-13; IC § 6-3-2-1; IC § 6-3-2-2; 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); *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); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); [45 IAC 3.1-1-21](#).

Taxpayer protests the Department's assessment of individual income tax for 2013.

STATEMENT OF FACTS

Individual was previously a resident of Indiana. The Indiana Department of Revenue ("Department") determined that Taxpayer was an Indiana full-year resident for the Tax Year 2013, and that he did not file an Indiana income tax return reporting his Indiana income tax, and that Indiana income tax was due for 2013.

Taxpayer timely protested the assessment. Taxpayer requested a final determination without a hearing. This Letter of Findings ensues and addresses Taxpayer's protest of the proposed assessment. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Non-filer - Residency.

DISCUSSION

The Department, based on verifiable information, found that Taxpayer was an Indiana resident for 2013, that he failed to file his Indiana full-year resident individual income tax return (Form IT-40), and that Indiana income tax was due for 2013. The Department based its reasoning on Taxpayer having an Indiana driver's license for the year at issue, had a vehicle registration with Indiana for the year at issue, and most importantly had tax documents with an Indiana address. Taxpayer disagreed. Taxpayer claimed that he was not an Indiana resident for 2013. The issue is whether Taxpayer was an Indiana resident for 2013.

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 its 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).

This Letter of Findings addresses Taxpayer's protest of the Department's proposed assessment for the 2013 tax year only. Therefore, Taxpayer's arguments and supporting documents will be discussed and considered in this protest only to the extent they are relevant to the 2013 year.

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. The presumption is that taxpayers file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayers' 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 taxpayers' taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

For Indiana income tax purposes, resident "includes (a) any individual who was domiciled in this state during the taxable year, or (b) any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state" IC § 6-3-1-12; see also [45 IAC 3.1-1-21](#). Nonresident is "any person who is not a resident of Indiana." IC § 6-3-1-13.

In Taxpayer's short protest letter he merely states that he was living and working in New York during 2013, and that he has not lived or worked in Indiana since 2011. Taxpayer provided no documentation to support his protest. Taxpayer failed to develop a coherent protest, thus his protest considered waived as provided by *Scopelite and Wendt LLP*. Taxpayer did not meet his burden as described in IC § 6-8.1-5-1(c) and his protest is denied.

FINDING

Taxpayer's protest of the residency issue is denied.

May 30, 2019

Posted: 07/31/2019 by Legislative Services Agency
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