

**Letter of Findings: 01-20190061
Individual Income Tax
For the Tax Year 2017**

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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 support claimed AGI modifications with documentation, therefore failing to prove that the Department's proposed assessment of additional Indiana individual income tax was incorrect for the tax year at issue.

ISSUE

I. Individual Income Tax - Imposition.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *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); [45 IAC 3.1-1-1](#).

Taxpayer protests the imposition of Indiana individual income tax for tax year 2017.

STATEMENT OF FACTS

Taxpayer filed an amended 2017 Indiana income tax return in April 2018, which increased both Federal AGI and Indiana deductions. In October 2018, the Indiana Department of Revenue ("Department") recalculated the Taxpayer's liability using the amended AGI but the original deductions. This adjustment resulted in additional Indiana tax due. The Department issued a proposed assessment for the difference, plus penalty and interest.

Taxpayer protested the assessment and waived the 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. Individual Income Tax - Imposition.

DISCUSSION

The Taxpayer's amended return shows an increase in income with an identical increase in deductions, essentially claiming that the previously unreported income is 100 percent deductible. The Department assessed Taxpayer for the increase in income, but denied the deduction. Thus the issue is whether Taxpayer adequately demonstrated that the newly reported income was 100 percent deductible.

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*, 867 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. Poorly developed and non-cogent arguments are subject to waiver. *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 485 n.9 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010).

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 deductions and modifications. IC § 6-3-1-3.5; [45 IAC 3.1-1-1](#). 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 deductions and modifications. One of those modifications removes social security income from taxable income. IC § 6-3-1-3.5(a)(8).

Taxpayer's protest claims that the additional income added to AGI in the amended return was social security disability income for a claimed dependent and is therefore not taxable. As evidence, the Taxpayer submitted a W-2, which listed the full amount of income originally reported for 2017, and Form SSA-1099-R-OP1 that listed benefits paid to the Taxpayer's claimed dependent in 2017. However, the Taxpayer increased reported income and deductions on the amended return by a different amount than the Form SSA-1099-R-OP1 reported as social security income. These amounts should be identical, since social security income was the only claimed difference between the original and amended returns. Taxpayer failed to explain why the amounts were different.

In a letter dated February 6, 2019, the Department explained that, in order to consider adjusting the 2017 Indiana state return, the Taxpayer needed to provide a copy of the 2017 Federal Record of Account Transcript. The letter also provided two means through which the Taxpayer could obtain the Federal Record of Account Transcript. The Department also requested a completed 2017 Schedule 2: Deductions form and enclosed a copy of the form along with its letter. Taxpayer did not respond to this letter or provide any further information.

As stated above, it is Taxpayer's burden to prove that the Department's assessment is incorrect. In doing so, Taxpayer is required to provide documentation to support her position. The Taxpayer's provided documentation was inconsistent with the 2017 amended Indiana return. Because of this, and because the Taxpayer failed to respond to the Department's request for a copy of the Federal Record of Accounts and a completed Schedule 2, the Taxpayer failed to demonstrate that the claimed deduction is valid. Thus, Taxpayer has failed to meet the burden under IC § 6-8.1-5-1(c) and the Taxpayer's protest is therefore denied.

FINDING

Taxpayer's protest is respectfully denied.

May 16, 2019

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