

DEPARTMENT OF STATE REVENUE

01-20190399.LOF
01-20190086.LOF**Letter of Findings: 01-20190399; 01-20190086
Individual Income Tax
For Tax Year 2016 and 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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 was not able to show that she actually had Indiana county tax withheld. Therefore the Department properly adjusted Taxpayer's 2016 and 2017 income tax returns to disallow Indiana county withholding credit.

ISSUE**I. Individual Income Tax–Return Adjustment.**

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *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. 2011).

Taxpayer protests the Departments assessment.

STATEMENT OF FACTS

Taxpayer is an Individual who is a resident of Ohio. Taxpayer filed an Indiana part year income tax return claiming state and county withholdings. The Indiana Department of Revenue ("Department") adjusted Taxpayer's return denying the county withholding credit. Taxpayer in turn filed a protest with the Department requesting a final determination without a hearing. Further facts will be presented as required.

I. Individual Income Tax–Return Adjustment.**DISCUSSION**

During the years at issue, Taxpayer was a full time resident of Ohio where she lived and earned her wages. Taxpayer moved out of Indiana to Ohio December 2016, but did not timely update her W-4 to reflect the move. As a result Taxpayer filed both an Ohio and Indiana return. On her Indiana return Taxpayer claimed credit for Indiana state and county withholding credit, as reflected by her W-2. Upon review of the returns, the Department determined that Taxpayer should not have claimed Indiana county withholding credit.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for unpaid tax is valid; the 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. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, the taxpayer is required to provide documentation explaining and supporting its 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. 2011).

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 adjustments. IC § 6-3-1-3.5(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. 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 additions and subtractions to that starting point. As to nonresidents, IC § 6-3-2-1(a) and IC § 6-3-2-2(a) provide that income derived from Indiana sources is subject to Indiana tax.

In this instance, Taxpayer claims that her W-2 from her employer withheld Indiana state and county tax. Thus, Taxpayer filed her Indiana PNR reflecting this withholding. Upon review of the W-2 it clearly shows that the local/county withholding was for Taxpayer's Ohio locality. Based on the information provided it is clear that Taxpayer did not have any Indiana county withholding and the Department was correct in its adjustment. Taxpayer did not meet its burden as required by IC § 6-8.1-5-1(c), and her protest is denied.

FINDING

Taxpayer's protest is denied.

May 30, 2019

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