

Letter of Findings: 01-20190117
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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 demonstrate that he did not have additional unreported Indiana taxable income or that the resulting liability was already paid. He therefore failed to prove that the Department's proposed assessment of additional Indiana individual income tax was incorrect.

ISSUE

I. Individual Income Tax - Federal Discrepancy.

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. 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 protests the imposition of Indiana individual income tax for tax year 2015.

STATEMENT OF FACTS

Taxpayer filed his 2015 Indiana income tax return in May 2016. In November 2018, the Indiana Department of Revenue ("Department") adjusted Taxpayer's 2015 return based on information from the Internal Revenue Service ("IRS") showing that more taxable income had been reported to the IRS than had been reported to the Department. This adjustment resulted in additional Indiana tax due. The Department issued Taxpayer a proposed assessment for that base tax, plus penalty and interest. Taxpayer protested this assessment, opting for the Department to make its written decision based on the materials sent in with the protest. Therefore, no administrative hearing was held. This Letter of Findings is written based on the materials in the protest file. Further facts will be supplied as necessary.

I. Individual Income Tax - Federal Discrepancy.

DISCUSSION

Based upon information received from the IRS, the Department adjusted Taxpayer's 2015 Indiana income tax return, resulting in an increase to Taxpayer's tax liability. Records obtained from the IRS showed that Taxpayer had substantially higher Federal Adjusted Gross Income than what was reported on his 2015 IT-40. The Department assessed Taxpayer for the increase, plus penalty and interest. Taxpayer claimed that he already paid his tax liability for 2015 and did not owe any additional tax. Thus the two issues in this case are whether Taxpayer adequately demonstrated that 1) he already paid his adjusted 2015 Indiana income tax liability or 2) the adjustment to his 2015 Indiana income tax return, and the resulting assessment of additional tax due, was incorrect.

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 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.

Taxpayer claimed that he already paid his Indiana income tax liability for 2015 and supplied a cleared check issued to the Department in 2016. The Department's records show that Taxpayer made this payment when filing for an extension of his original return. The payment did not include the current tax liability, which resulted from IRS adjustments to his reported income. In a letter to Taxpayer dated February 20, 2019, the Department informed Taxpayer that the current assessment "is the result of a discrepancy between your Federal Adjusted Gross Income (FAGI) amount compared to the amount indicated on line 1 of your Indiana state return." The letter went on to state that, if Taxpayer disagreed with the adjustment, he should provide a copy of his 2015 Federal Record of Account Transcript to the Department by March 22, 2019. The Department's letter also provided two means through which Taxpayer could obtain his Federal Record of Account Transcript. Taxpayer did not respond to this letter.

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 his position. Because Taxpayer failed to respond to the Department's request for a copy of his Federal Record of Accounts, the statutory presumption is that the proposed assessment is correct. Taxpayer's payment from 2016 only satisfied previous liabilities and not the proposed assessments derived from IRS information. Taxpayer has not presented any evidence demonstrating that his adjusted federal AGI is incorrect or that his adjusted Indiana income tax liability has already been paid. Thus, Taxpayer has failed to meet his burden under IC § 6-8.1-5-1(c). Taxpayer's protest is therefore denied.

FINDING

Taxpayer's protest is respectfully denied.

May 2, 2019

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