

Letter of Findings: 02-20190153
Corporate Income Tax
For the Tax Period 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Document.

HOLDING

Company could not show that the Department's assessment was incorrect. Thus, Company was properly assessed additional corporate income tax.

ISSUES

I. Indiana Corporate Income Tax - Overpayments and Application.

Authority: IC § 6-8.1-5-1; IC § 6-3-4-4.1; *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); *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579, 587 (Ind. 2014); *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 additional income tax.

STATEMENT OF FACTS

Taxpayer is an out-of-state company doing business in Indiana. Taxpayer timely filed a 2017 Indiana corporate income tax return. The Indiana Department of Revenue ("Department") adjusted Taxpayer's return resulting in additional corporate income tax.

Taxpayer timely protested the proposed assessment, requesting that the Department make the "Final determination without a hearing." This Letter of Findings ensues and addresses Taxpayer's protest of the proposed 2017 assessment based on the information available to the Department and within the file. Additional facts will be provided as necessary.

I. Indiana Corporate Income Tax - Overpayments and Application.

DISCUSSION

Taxpayer timely filed its 2017 Indiana corporate income tax return. The Department adjusted Taxpayer's return as a result of lowering the amount of its refund carryforward from 2016. This resulted in additional income tax due for 2017.

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). "Each 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). Also, "all statutes are presumptively constitutional." *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579, 587 (Ind. 2014) (*citing UACC Midwest, Inc. v. Indiana Dep't of State Rev.* 629 N.E.2d 1295, 1299 (Ind. Tax Ct. 1994)). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an

equally reasonable interpretation by another party." *Caterpillar, Inc.*, 15 N.E.3d at 583.

IC § 6-3-4-4.1, in relevant part, states:

(c) Every corporation subject to the adjusted gross income tax liability imposed by this article shall be required to report and pay an estimated tax equal to the lesser of:

- (1) twenty-five percent (25[percent]) of such corporation's estimated adjusted gross income tax liability for the taxable year; or
- (2) the annualized income installment calculated in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(d) The penalty prescribed by IC [§] 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection (c) or (f). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:

- (1) the annualized income installment calculated under subsection (c); or
- (2) twenty-five percent (25[percent]) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25[percent]) of the corporation's final adjusted gross income tax liability for such taxable year.

Upon review of Taxpayer's account, Taxpayer was assessed underpayment penalty in 2016, thereby lowering its carryforward refund for tax year 2017. For 2017, Taxpayer reported tax due of \$1,124, but since its carryforward from 2016 was reduced, the Department adjusted the tax due to \$1,372. Taxpayer has not established that the Department's assessment was incorrect. Taxpayer has not met its burden as required under IC § 6-8.1-5-1(c), and its protest is denied.

FINDING

Taxpayer's protest is respectfully denied.

May 30, 2019

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