

**Letter of Findings: 01-20190063
Individual Income Tax
For the 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individuals were required to include canceled debt on their 2015 Indiana individual income tax return.

ISSUE

I. Individual Income Tax - Indiana Source Income.

Authority: I.R.C. § 108; IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *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).

Taxpayers argue that other than income included on their 1099-R; they had no other Indiana sourced income.

STATEMENT OF FACTS

Taxpayers are Indiana residents. The Indiana Department of Revenue ("Department") determined that Taxpayers did not include the proper amount of income on their individual income tax return. The Department then proceeded to issue Taxpayers a proposed assessment of additional 2015 Indiana income tax.

Taxpayers disagreed and submitted a protest to that effect. Taxpayers requested a Final Determination without a hearing, and this Letter of Findings ensues. Further facts will be supplied as required.

I. Individual Income Tax - Indiana Source Income.

DISCUSSION

The issue is whether Taxpayers received Indiana source income during 2015 and were required to file an Indiana return reporting that income. Taxpayers argue that the only income they received in 2015 was that which was listed on a 1099-R, which was a distribution from their retirement account.

Taxpayers currently live in Indiana. The Department assessed Taxpayers additional income tax based on the "best information available" on the ground that Taxpayers received income reportable on the Indiana return.

All tax assessments are prima facie evidence that the Department's claim for the tax is valid, and each 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. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Thus, 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. *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, 485 n.9 (Ind. Tax Ct. 2012). In reviewing a taxpayer's argument, the Indiana Supreme Court has held, that when it examines a statute that an agency is "charged with enforcing . . . we defer to the agency's reasonable interpretation of the statute even over an equally reasonable interpretation by another party." *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014) (internal quotation marks removed).

Indiana imposes an income tax "upon 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).

I.R.C. § 108, for the year at issue, provides rules on income from discharge of indebtedness.

(a) Exclusion from gross income.--

(1) In general.--Gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if--

(A) the discharge occurs in a title 11 case,

(B) the discharge occurs when the taxpayer is insolvent,

(C) the indebtedness discharged is qualified farm indebtedness,

(D) in the case of a taxpayer other than a C corporation, the indebtedness discharged is qualified real property business indebtedness, or

(E) the indebtedness discharged is qualified principal residence indebtedness which is discharged--

(i) before January 1, 2017, or

(ii) subject to an arrangement that is entered into and evidenced in writing before January 1, 2017.

However, Indiana has a different rule and requires the canceled debt, which had been excluded from income, be added back for Indiana income tax purposes. IC § 6-3-1-3.5(a) (2015). Indiana requires taxpayers to "Add the amount excluded from gross income under Section 108(a)(1)(e) of the Internal Revenue Code for the discharge of debt on a qualified principal residence." IC §6-3-1-3.5(a)(25) (2015).

While Taxpayers received a 1099-R for retirement distributions, the Department received information stating that Taxpayers had a 1099-C which is a cancellation of debt. Taxpayers received a cancellation of debt as described in I.R.C. § 108. Pursuant to IC § 6-3-1-3.5(a) (2015) they were required to add back the amount excluded to their Indiana adjusted gross income. Therefore Taxpayers were required to file an Indiana IT-40 for 2013. Taxpayers have not met their burden under [IC 6-8.1-5-1\(c\)](#).

FINDING

Taxpayers' protest is respectfully denied.

Jun 30, 2019

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