

**Letter of Findings: 01-20182267
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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Married couple failed to provide documentation supporting their position that the Department's proposed assessment of additional Indiana individual income tax was incorrect for the year at issue.

ISSUE

I. Income Tax-Federal Discrepancy Assessment.

Authority: IC § 6-8.1-5-1; IC § 6-3-2-2; IC § 6-3-2-1; IC § 6-3-1-3.5; *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); *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).

Taxpayers protest the imposition of Indiana individual income tax for tax year 2015.

STATEMENT OF FACTS

Taxpayers, a married couple, filed their 2015 Indiana income tax return on March 14, 2016. On their return, Taxpayers claimed a refund of \$496. In September of 2018, based on information from the Internal Revenue Service (IRS), the Indiana Department of Revenue ("Department") adjusted Taxpayers' 2015 return which resulted in a tax liability of \$266. The Department issued Taxpayers a proposed assessment for the return of the original refund plus the increase in base tax, as well as penalty and interest; a total of approximately \$892. Taxpayers protested the assessment offering to pay the penalty, interest, and additional tax, but asking to keep the original \$496 refund. In response to their offer, the Department, in a letter dated November 7, 2018, asked Taxpayers to provide the Department with a copy of their 2015 Federal Record of Account Transcript. In the letter, the Department provided two means through which the Federal Record of Account Transcript may be obtained. To date, this information has not been received. Additional information will be provided as necessary.

I. Income Tax-Federal Discrepancy Assessment.

DISCUSSION

Due to an adjustment to Taxpayers' 2015 Federal income tax return, the Department adjusted Taxpayers' Indiana 2015 tax return, resulting in tax liability. The Department assessed Taxpayers for a return of their original refund, plus the new liability as well as penalty and interest. Taxpayers protested the assessment and proposed to settle the outstanding liability. The Department asked that Taxpayers provide their Federal Record of Account Transcript, which Taxpayers have failed to do as of the date of this Letter of Findings.

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 Dept. 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 a 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 a taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In September of 2018 the Department adjusted Taxpayers' 2015 Indiana income tax return based on information it received from the IRS. The Department then issued Taxpayers a proposed assessment as a result of the adjustment. In November of 2018, Taxpayers filed a protest of the assessment. Along with the protest letter, Taxpayers provided a Protest Submission Form in which they opted to settle the outstanding liability with the Department. In response, the Department asked Taxpayers to provide a copy of their 2015 Federal Record of Account. Taxpayers have not provided this documentation. Further, the Department spoke with Taxpayers on May 30, 2019 informing Taxpayers of the exact increase in their Federal adjusted gross income. The Department encouraged Taxpayers to obtain their Federal Record of Account Transcript in order to determine why the Federal adjusted gross income was increased. As of the date of this Letter of Findings, Taxpayers have not supplied their 2015 Federal Record of Account Transcript, nor have they responded to Department emails and phone calls.

As stated above, it is the Taxpayers' burden to prove that the Department's assessment is incorrect. In doing so, the Taxpayers are required to provide documentation to support their position. Until and unless Taxpayers provide evidence that their 2015 Federal return was corrected, the Department cannot remove Taxpayers' assessments. Thus, Taxpayers have not met their burden under IC § 6-8.1-5-1(c). Taxpayers' protest is denied.

FINDING

Taxpayers' protest is denied.

July 17, 2019

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