

Letter of Findings: 01-20190865
Individual Income Tax
For the Year 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Letter of Findings.

HOLDING

Indiana Individual filed an amended 2017 Indiana and federal income with the intent of correcting Individual's original filing errors which had resulted in a proposed assessment of additional Indiana income tax. The Department agreed that the information was sufficient to justify the Department's review of the amended return and the potential recalculation of the amount owed.

ISSUE

I. Indiana Individual Income Tax - Correction of Original Reporting Errors.

Authority: IC § 6-3-1-3.5(a); IC § 6-3-2-1(a); IC § 6-8.1-5-1(c); IC § 6-8.1-10-2.1(d); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *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); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); [45 IAC 15-11-2\(c\)](#).

Taxpayer argues that the Department's assessment of additional tax is wrong because the Department's adjustments were based upon multiple errors contained in the Taxpayer's original Indiana return.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who files for and pays Indiana individual income tax. Taxpayer submitted a 2017 Indiana individual income tax return. The Indiana Department of Revenue ("Department") reviewed the return and made two adjustments. The first adjustment increased the amount of adjusted gross income to agree with the amount reported on the federal return. The second adjustment changed the amount of county income tax withheld on the Taxpayer's behalf. The second adjustment decreased the amount of county income tax withheld.

The two adjustments resulted in an assessment of additional Indiana income tax. Taxpayer disagreed with the result and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayer's representative explained the basis for the protest. This Letter of Findings results.

I. Indiana Individual Income Tax - Correction of Original Reporting Errors.

DISCUSSION

The issue is whether Taxpayer has provided sufficient documentation which justifies a review of Taxpayer's amended filing concerning his Indiana and federal 2017 income taxes and to make an adjustment to the Indiana return which abates the additional tax assessment and results in a refund of tax to Taxpayer.

Because the Department's review of Taxpayer's original 2017 Indiana income tax return resulted in an assessment of additional tax, it becomes the Taxpayers' responsibility to establish that the assessment including interest, penalty, and tax is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department'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 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).

When a taxpayer challenges taxability in a specific instance, that taxpayer is required to provide documentation explaining and supporting its challenge. 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). 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." *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Indiana imposes a tax "on 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). To efficiently and effectively compute what is considered the resident/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 his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

The Department adjusted the amount of taxable income reported by Taxpayer to comport with the amount reported on the original return. The amount originally reported was approximately \$57,000. Bearing in mind the amount reported on the corresponding federal return, the Department adjusted the \$57,000 to approximately \$102,000.

Taxpayer states the adjustment is wrong and to that end has provided a copy of his amended federal return, which indicates a "correct amount" of approximately \$42,000 in adjusted gross income.

The Department's second adjustment decreased the amount of schedule 5 "credits" from approximately \$5,600 to approximately \$4,200. Taxpayer explains that the original return accidentally "doubled" the amount of county taxes withheld. Taxpayer's amended Indiana return reflects the "adjusted to" amount of \$4,200.

Taxpayer now believes that the Department has all the information necessary to make the requested adjustments to accord with the amended federal and Indiana returns and - as a result - issue Taxpayer a refund of approximately \$1,200. In this case, there is no "legal" issue to consider; the verified numbers will be what the verified numbers are.

Taxpayer also believes it is entitled to abatement of the penalty and interest charges. In this case, the Department does not agree. There is simply no legal framework which allows the abatement of interest charges properly imposed and calculated. As to any penalties, Taxpayer has made no coherent argument which reasonably justify abatement of the penalties. IC § 6-8.1-10-2.1(d) calls for abatement of penalties when the affected taxpayer can establish "reasonable cause" for a deficiency while [45 IAC 15-11-2\(c\)](#) provides that this threshold is met when the taxpayer can demonstrate it "exercised ordinary business care and prudence . . ." Taxpayer has not met its statutory burden under IC § 6-8.1-5-1(c) of establishing that the assessment of the penalty was wrong.

FINDING

Subject to the Department's review and verification of the amended 2017 federal and state returns, Taxpayer's protest is sustained. Taxpayer's request to abate penalties and interest is respectfully denied.

August 21, 2019

Posted: 10/30/2019 by Legislative Services Agency
An [html](#) version of this document.