

**Final Order Denying Refund: 01-20190892R
Individual Income Tax
For The Tax Year 2000**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

Individual failed to support her claim that garnished wages were not previously refunded.

ISSUE

I. Individual Income Tax - Burden of Proof.

Authority: 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 requests a refund of wages garnished pursuant to the Department's assessment of individual income tax for the 2000 tax year.

STATEMENT OF FACTS

Taxpayer is an individual who filed jointly with her husband in Indiana during the 2000 tax year. After reviewing its records, the Indiana Department of Revenue ("Department") issued an assessment to both Taxpayer and her husband for income taxes due for the 2000 tax year. Eventually, the Department began garnishing Taxpayer's wages, which occurred between August and December of 2017. Taxpayer then sought and successfully obtained innocent spouse status in 2018. On November 30, 2018, the Department issued a letter to Taxpayer explaining that her claim for innocent spouse relief had been granted. The letter went on to explain that Taxpayer would receive a refund for the 2000 tax year and her liability for that year would be cancelled. Taxpayer received this refund shortly thereafter.

In January 2019, Taxpayer requested a refund of wages garnished in 2017. The Department found that Taxpayer had already received a refund for these garnished wages and denied her claim. Taxpayer protested the denial. A hearing was held telephonically and this order results.

I. Individual Income Tax - Burden of Proof.

DISCUSSION

While Taxpayer agrees that the Department paid her a refund after she was granted innocent spouse status, she believes a further refund is still owed. Taxpayer claims that the refund issued to her in 2018 was not a refund of the wages garnished in 2017, but was instead a refund for previous withholding for the 2000 tax year. The issue is therefore whether Taxpayer sufficiently demonstrated that the refund issued was for previous withholding instead of the recently garnished wages.

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

The Department's records do not show any reported withholding in 2000 beyond the amount of tax due for the year. In fact, failing to withhold or otherwise pay income taxes in 2000 is the very reason that the Department decided to begin garnishment in 2017. After the 2000 liability was cancelled, the wages garnished in 2017 were returned to the Taxpayer and her employer, with a small remainder going towards collection fees that cannot be refunded. Any refund beyond the one already issued would require the Taxpayer to demonstrate that she paid money to the Department beyond her tax liability for the 2000 tax year. Taxpayer provided no documentation to show that such payments were made or that such money was withheld. Therefore, Taxpayer failed to meet her burden. Taxpayer's refund claim is denied.

FINDING

Taxpayer's protest is respectfully denied.

September 30, 2019

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