DEPARTMENT OF STATE REVENUE

01-20191436.LOF

Letter of Findings: 01-20191436
Individual Income Tax
For the Year 2016

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

The Department disagreed with Individual's contention that his assessment of additional Indiana income tax was attributable to an unnamed Department employee's effort to reach an assessment quota; instead the adjustment was made to comport with the amount of income reported in his federal return.

ISSUE

I. Individual Income Tax - Federal Adjustment and Resulting Indiana Assessment.

Authority: IC § 6-3-1-3.5(a); IC § 6-3-1-8; IC § 6-8.1-3-2.5; IC § 6-8.1-5-1(b); IC § 6-8.1-5-1(c); I.R.C. § 61(a); I.R.C. § 62; I.R.C. § 62(a); *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); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *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 argues that the Department erred in assessing additional Indiana Individual Income Tax on the ground that the Department was not justified in making the adjustment.

DISCUSSION

Taxpayer is an Indiana resident who files returns and pays Indiana income tax. Taxpayer timely filed his 2016 Indiana return which was postmarked March 2017. The return indicated that Taxpayer owed approximately $800. The Department processed the return and issued a routine refund of approximately $250 ten days after the return was received.

Subsequently, the Department adjusted the return to comport with the amount of income indicated on his corresponding federal return. The adjustment increased Taxpayer's income by approximately $200. The adjustment resulted in an assessment of approximately $20.

Taxpayer disagreed with the assessment and submitted a protest to that effect. Taxpayer indicted that he did not want a hearing but sought a "fast track" settlement. Taxpayer indicated that his settlement proposal was "that the proposed assessment be rescinded and/or dismissed in writing."

During the course of the protest, Taxpayer paid the $20 amount the Department determined was due.

The assigned hearing officer arranged for a phone conference to permit Taxpayer an opportunity to explain the basis for the protest. The phone conference was conducted in November 2019. This Letter of Findings results.

I. Individual Income Tax - Federal Adjustment and Resulting Indiana Assessment.

DISCUSSION

Taxpayer argues that the assessment notice contained "inadequate information to determine why this should be considered a valid proposed assessment." Taxpayer further maintained that it was "difficult if not impossible to be certain that a person can comply with the instructions on the Indiana tax form . . . ." Taxpayer also stated that the Department's guidance on the protest process was "less than skimpy" and that any explanation he had received

from the Department was "babbling" or "mumbling." As explained by Taxpayer:

> [T]he DOR has the taxpayer on a leash and someone working at or for DOR can jerk said taxpayer around with apparently little oversight.

Taxpayer also maintains that the proposed $20 assessment was solely the result of a quota system imposed on the Department's personnel and that the Department employs "subtle methods" to enforce that assessment quota. Taxpayer believes that the Department dismisses employees who do not issue a sufficient number of proposed assessments and that, in his case, the additional $20 assessment was solely the result of an unnamed Department employee attempting to meet his or her assessment quota.

In this instance, Taxpayer's protest stems in part from the Department's assessment of additional individual income tax. As a threshold issue, such a tax assessment is *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). "[E]ach 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).

The Indiana Adjusted Gross Income Tax Act defines "adjusted gross income," in the case of individuals, as the term is defined in I.R.C. § 62 with certain limitations specific to Indiana. IC § 6-3-1-3.5(a). Thus "adjusted gross income" is, "in the case of an individual, gross income minus . . . [certain] deductions." I.R.C. § 62(a). Similarly, the Indiana Act incorporates the definition of "gross income" as found in I.R.C. § 61(a). IC § 6-3-1-8. Therefore, "gross income" consists of "*all income from whatever source derived* . . . ." I.R.C. § 61(a) (*Emphasis added*).

At the outset, the Department finds no evidence suggesting that the $20 assessment is the result a DOR employee's efforts to meet his or her assessment quota. In addition, the Department points out that Indiana law specifically precludes the Department from in any way evaluating an employee's performance based on the amount of revenue collected. IC § 6-8.1-3-2.5 states that "[t]he department may not include the amount of revenue collected or tax liability assessed in the evaluation of an employee."

As to the assessment, the Department issued the assessment because it received information from the Internal Revenue Service (IRS) which required the Department to reconcile Taxpayer's Indiana income with the information provided by the IRS. There are two reasons for the adjustment; (1) Taxpayer made an error reporting the amount of taxable social security benefits. Taxpayer underreported that amount by approximately $70. The IRS adjusted that amount and the Department followed suit. (2) In addition, Taxpayer made a math error in adding the amount of "taxable interest income," schedule D "capital gain or loss," and "taxable pension/annuity amount." Together with the adjustment to his taxable social security benefits, the addition error accounts for the $200 total adjustment and the resulting $20 assessment.

After reviewing the federal transcript and the adjustments originally made by the IRS, the Department concludes that the adjustment to his Indiana return was correct. The Department did what it is required to do. IC § 6-8.1-5-1(b) states in relevant part that "[i]f the department reasonably believes that a person has not reported the amount of tax due, the department *shall* make a proposed assessment of the amount of unpaid tax on the basis of the best information available to the Department." (*Emphasis added*). In this case, the Department's "best information" available to the Department indicated that Taxpayer made a mistake in calculating his Indiana income tax liability by approximately $20.

FINDING

Taxpayer's protest is respectfully denied.

December 5, 2019

Posted: 04/01/2020 by Legislative Services Agency
An html version of this document.