

**Letter of Findings: 01-20191492**  
**Individual Income Tax**  
**For the Tax 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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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**

Individuals provided documentation showing that Department's recalculation of AGI was incorrect and based on an error that the IRS has since corrected.

**ISSUE**

**I. Income Tax - Burden of Proof Assessment Incorrect.**

**Authority:** IC § 6-8.1-5-1; IC § 6-3-2-2; IC § 6-3-2-1; IC § 6-3-1-3.5; *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 protest the imposition of Indiana individual income tax for tax year 2016.

**STATEMENT OF FACTS**

Taxpayers timely filed their 2016 Indiana tax return and applied their overpayment to the following year's tax account. Based on information from the Internal Revenue Service ("IRS"), the Indiana Department of Revenue ("Department") adjusted Taxpayers' 2016 return which resulted in a tax liability. The Department issued Taxpayers a proposed assessment for the amount of the liability, plus penalty and interest. Taxpayers protested the assessment and an administrative hearing was held. This letter of findings results. Additional facts will be provided as necessary.

**I. Income Tax - Burden of Proof Assessment Incorrect.**

**DISCUSSION**

Due to an IRS adjustment to Taxpayers' 2016 federal income tax return, the Department adjusted Taxpayers' Indiana 2016 tax return, resulting in a tax liability. The Department changed Taxpayers' adjusted gross income ("AGI") to align with the AGI reported by the IRS. This AGI adjustment also made Taxpayers' ineligible for the unified tax credit for the elderly, which was removed from their return. Taxpayers protested these adjustments and the resulting assessment, stating that the AGI figure relied on by the Department was the result of an error with the IRS, which has since been corrected.

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 Dep't. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dep't. 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 the 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 their Indiana income tax after applying certain additions and subtractions to that starting point.

At the hearing, Taxpayers provided a copy of their 2016 IRS Account Transcript. This shows that the IRS currently lists Taxpayers' AGI at the same figure originally included on Taxpayers' Indiana return. The Transcript also shows entries for additional tax assessments with zero dollar adjustments and includes an explanation "tax return processed to wrong identifying number or tax period." Taxpayers have therefore demonstrated that their originally reported AGI is once again being used by the IRS, and that the changes relied upon by the Department were erroneous and have been corrected by the IRS. Taxpayers have met their burden imposed under IC § 6-8.1-5-1(c) of proving the proposed assessment wrong. That assessment will be cancelled and Taxpayers' AGI and unified tax credit will be restored to their previous values.

### **FINDING**

Taxpayer's protest is granted.

April 21, 2020

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