

**Letter of Findings: 01-20190944
Indiana Individual Income Tax
For the 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

To the extent that Indiana Individual provided a current federal transcript purporting to verify the amount and filing status of his amended 2015 Indiana income tax return, the Department sustained Individual's protest.

ISSUE

I. Indiana Individual Income Tax - Verifying a 2015 Amended Indiana Income Tax Return.

Authority: IC § 6-3-1-3.5(a); IC § 6-3-1-8; IC § 6-8.1-5-1(c); *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); *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); I.R.C. § 61(a); I.R.C. § 62(a); [45 IAC 3.1-1-1](#).

Taxpayer argues that the Department erred in assessing additional income tax because he can now identify the correct amount of his 2015 Indiana adjusted gross income and his correct filing status.

STATEMENT OF FACTS

Taxpayer is an Indiana individual who files Indiana income tax returns. Taxpayer timely filed the 2015 Indiana income tax return - electing married-filing joint status - and received a refund.

In November 2018, the Indiana Department of Revenue ("Department") cross-referenced information in its records with the federal information maintained by the Internal Revenue Service ("IRS"). The Department determined that, for the 2015 tax year, Taxpayer had an approximately additional \$148,000 in federal adjusted gross income than what was reported in their 2015 return, IT-40 Form. As a result, the Department assessed Taxpayer additional tax due.

Subsequently, in December 2018, Taxpayer submitted an amended 2015 Indiana income tax return reflecting a change in his reporting status and claiming additional net operating losses carried over from his K-1s.

In a letter dated December 2018, the Department responded. The Department rejected the return but asked for a "Federal Record of Account or Account Transcript" in order to verify Taxpayer's reported income and filing status. The Department's letter also explained that Taxpayer could appeal the decision.

Taxpayer responded in January 2019 objecting to the Department's decisions. Taxpayer explained that a 2015 amended federal return had been filed with the IRS. Taxpayer further stated that because of "the federal government shut down the Amended Return ha[d] not yet been processed by the IRS."

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 - Verifying a 2015 Amended Indiana Income Tax Return.

DISCUSSION

The issue is whether Taxpayer has established that the Department refusal to accept his 2015 amended Indiana

income tax return was wrong, that the assessment of 2015 individual income tax was wrong, and that he can now verify the amount of 2015 adjusted gross income and his then correct filing status.

As a threshold issue, tax assessments are *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).

In order to meet the burden of proof, 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*).

Both the statute, IC § 6-3-1-3.5, and the accompanying regulation, [45 IAC 3.1-1-1](#), require that an Indiana taxpayer employ the Federal adjusted gross income calculation, as determined under I.R.C. § 62, as the starting point for determining the taxpayer's Indiana adjusted gross income.

In this case, the Department reviewed Taxpayer's original return and found that Taxpayer had an approximately additional \$148,000 in federal adjusted gross income than what was reported in their 2015 married-filing-joint return. The Department thus assessed additional income tax accordingly. However, Taxpayer responded with amending his return, changing his filing status, and also revising his federal adjusted gross income without verifiable IRS transcript to support his filing. Thus, in the absence of verifiable supporting documents, the Department properly rejected Taxpayer's amended return in December 2018.

In May 2020, Taxpayer was able to obtain a copy of his federal transcript for 2015 to support his amended filing and his protest. Taxpayer further maintains that the federal transcript, dated May 2020, verifies that his federal adjusted gross income was approximately \$126,000.

In light of this May 2020 information, the Department is prepared to agree that Taxpayer has met his burden of establishing that the Department's assessment was incorrect and that he has fulfilled the Department's 2018 requirement that he provide a Federal Record of Account or Account Transcript.

To the extent that the Department rejected his 2015 amended income tax return because he was unable to verify the amounts and status reported on that particular return, Taxpayer's protest is sustained. The Department will review Taxpayer's amended return and make necessary adjustments as needed based on the verifiable information.

FINDING

Taxpayer's protest is sustained.

May 15, 2020

Posted: 07/29/2020 by Legislative Services Agency
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