

**Letter of Findings: 01-20200028**  
**Income Tax**  
**For the Years 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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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**

Individual did not provide sufficient evidence for the Department to abate the penalty assessed.

**ISSUE**

**I. Tax Administration—Penalties.**

**Authority:** IC § 6-3-4-4.1; IC § 6-8.1-10-2.1; IC § 6-8.1-5-1; [45 IAC 15-11-2](#); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer protests the imposition of penalty.

**STATEMENT OF FACTS**

Taxpayer filed an extension to file his 2017 individual income tax for Indiana. The extension was confirmed by Taxpayer's Internal Revenue Services Account Transcript. The Department however, determined that Taxpayer did not remit any estimated tax for 2017. This resulted in an assessment of additional income tax, penalty, and interest for 2017. Taxpayer protests the penalty portion of the assessment. An administrative hearing was held and this Letter of Findings results. Further facts will be supplied as required.

**I. Tax Administration—Penalties.**

**DISCUSSION**

Taxpayer protests the imposition of penalty on his 2017 individual income tax. Taxpayer explained that he was not aware that he was required to pay 90 percent of his tax in order to properly extend his deadline for filing his Indiana individual income tax.

As a threshold issue, it is 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 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 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. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

IC § 6-3-4-4.1 states in relevant part:

- (a) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the

Internal Revenue Code. However, the following apply to estimated tax returns filed and payments made under this subsection:

- (1) In applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by [IC 6-3-3](#).
- (2) Estimated tax for a nonresident alien (as defined in Section 7701 of the Internal Revenue Code) must be computed by applying not more than one (1) exclusion under [IC 6-3-1-3.5\(a\)\(3\)](#) and [IC 6-3-1-3.5\(a\)\(4\)](#), regardless of the total number of exclusions that [IC 6-3-1-3.5\(a\)\(3\)](#) and [IC 6-3-1-3.5\(a\)\(4\)](#) permit the taxpayer to apply on the taxpayer's final return for the taxable year.
- (b) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than one thousand dollars (\$1,000). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by [IC 6-8.1-10-2.1\(b\)](#).

Thus, Taxpayer was required to pay a portion of his tax upon filing his extension. After the Taxpayer filed his 2017 return the Department assessed a 10 percent negligence penalty as allowed under IC § 6-8.1-10-2.1. Taxpayer is now requesting that the Department abate the Penalty. Taxpayer stated he did not know he was required to make estimated payments when extending his deadline for filing his Indiana individual income tax. Under [45 IAC 15-11-2](#) the Department is permitted to waive negligence penalty. [45 IAC 15-11-2](#) states:

- (b) The department shall waive the negligence penalty imposed under [IC 6-8.1-10-1](#) if the taxpayer affirmatively establishes that the failure to file a return, pay the full amount of tax due, timely remit tax held in trust, or pay a deficiency was due to reasonable cause and not due to negligence. In order to establish reasonable cause, the taxpayer must demonstrate that it exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed under this section. Factors which may be considered in determining reasonable cause include, but are not limited to:
  - (c)
    - (1) the nature of the tax involved;
    - (2) judicial precedents set by Indiana courts;
    - (3) judicial precedents established in jurisdictions outside Indiana;
    - (4) published department instructions, information bulletins, letters of findings, rulings, letters of advice, etc.;
    - (5) previous audits or letters of findings concerning the issue and taxpayer involved in the penalty assessment.

Reasonable cause is a fact sensitive question and thus will be dealt with according to the particular facts and circumstances of each case.

Based on Taxpayer's previous filings and the information provided to the Department, the Department cannot agree that Taxpayer was not negligent in his filing. His history shows several adjustments made by the Department in the past. Also, some of the adjustments included the same penalty assessed in this case. Generally, ignorance of the law is treated as negligence. [45 IAC 15-11-2](#). Thus, the Department will not abate the penalty.

## FINDING

Taxpayer's protest of penalty is denied.

October 14, 2020

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