

Letter of Findings: 01-20200366
Indiana Individual Income Tax
For the Year 2018

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

IC § 6-3.6-8-5(b) specifically excludes the application of reciprocity between Indiana and other states. As such, Ohio resident was not entitled to additional refund because she worked in Indiana and her wage income was Indiana source income subject to Indiana county income tax.

ISSUE

I. Individual Income Tax - Indiana Income.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-3.6-8-5; 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); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *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); Income Tax Information Bulletin 28 (November 2016).

Taxpayer protests the Department's refund denial of individual income tax for 2018.

STATEMENT OF FACTS

Taxpayer is an Ohio resident who began working for an employer in Indiana in 2018. The Indiana employer withheld tax on wages paid to Taxpayer. In 2019, Taxpayer filed Indiana Reciprocal Nonresident Indiana Individual Income Tax Return ("RNR"), claiming that she was entitled to a full refund on tax withheld.

The Indiana Department of Revenue ("Department") reviewed and adjusted Taxpayer's return and assessed Taxpayer additional tax, penalty, and interest.

Taxpayer protested. This final determination ensues. Additional facts will be provided as needed.

I. Individual Income Tax - Indiana Income.

DISCUSSION

The Department reviewed Taxpayer's 2018 filing and determined that Taxpayer's W-2 income from her Indiana employer was subject to Indiana county income tax pursuant to IC § 6-3.6-8-5(b). The Department thus made adjustments, which resulted in additional tax, penalty, and interest.

Taxpayer disagreed. Taxpayer stated, in relevant part, that:

Taxpayer is not responsible for the 2018 Indiana taxes since she lives in Ohio

The issue thus is whether Taxpayer demonstrated that the Department erroneously denied the refund and the assessment was incorrect.

As a threshold issue, all 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); *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).

Therefore, 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).

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. To efficiently compute Indiana resident's state income tax, the Indiana law references 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 the taxpayer's Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

Although Indiana has entered into reciprocal agreements with several states, IC § 6-3.6-8-5(b) specially excludes counties from reciprocity.

The Department's Income Tax Information Bulletin 28 (November 2016), 20161228 Ind. Reg. 045160560NRA, further explains the following:

III. RECIPROCAL AGREEMENT STATES

Five states have a reciprocal agreement with the state of Indiana. They are Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin. **All salaries, wages, tips, and commissions earned in these states by an Indiana resident must be reported as if they were earned in Indiana.** A credit cannot be taken for any taxes withheld by or paid to any of these states in connection with income from salaries, wages, tips, and commissions. If taxes have been withheld or paid to any of these states, a claim for refund should be filed with that state by filing that particular state's income tax form for nonresidents. **Residents of Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin who have Indiana income will report and pay tax on that income to their state of residence. If a resident of one of the above states has wages, salaries, tips, or commissions from Indiana sources, and the individual's only income from Indiana sources is wages, salaries, tips, or commissions, Form IT-40RNR must be filed.** A credit for Indiana state and county tax withholding amounts will be allowed, and any Indiana county tax liability will be figured. **If a resident of one of the above states has income from Indiana other than wages, salaries, tips, or commissions, Form IT-40PNR must be filed. (Emphasis added).**

In this instance, Taxpayer is an Ohio resident who began working for her employer in Indiana on January 1, 2018. IC § 6-3-2-2(a)(4) specifically includes "compensation for labor or services rendered within this state." As such, that income is income subject to Indiana income tax under IC § 6-3-2-2(a)(4). Although reciprocity applies to the state income tax, it does not apply to county income tax. As such, Taxpayer's 2018 wage income was subject to county income tax of the county where Taxpayer worked during 2018. The Department thus properly denied Taxpayer's filing because her wage income was subject to Indiana county income tax.

In short, given the totality of the circumstances, Taxpayer's wage income was subject to Indiana county income tax. The Department correctly adjusted Taxpayer's returns to comport with the records.

FINDING

Taxpayer's protest is respectfully denied.

December 15, 2020

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