

Letter of Findings: 01-20200392
Individual Income Tax
For Tax Years 2019

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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 mistakenly claimed out-of-state withholding credits on their Indiana return. Taxpayers must file an amended return in order to claim credit for taxes paid to other states.

ISSUE

I. Individual Income Tax - Credit for taxes paid to other states.

Authority: IC § 6-3-3-3; IC § 6-3-2-1; IC § 6-8.1-5-1; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *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); *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayers protest the assessment of individual income tax.

STATEMENT OF FACTS

Taxpayers ("Husband and Wife") filed their 2019 Indiana Individual Income Tax return claiming the full amount of withholding credits. In reviewing the return, the Indiana Department of Revenue ("Department") determined that Taxpayers only had a portion of those credits withheld for Indiana and adjusted the return accordingly. On Husband's W-2, there are Colorado, Iowa, and Indiana withholdings. The Department reduced the withholding credit to match the Indiana portion listed on the W-2. This adjustment resulted in an assessment. Taxpayers timely protested, and an administrative hearing was held. This Letter of Findings is a result from the hearing and information in the protest. Further facts will be provided as necessary.

I. Individual Income Tax - Credit for taxes paid to other states.

DISCUSSION

The Department reduced Taxpayers' withholding credits on their 2019 IT-40 return. This reduction resulted in an assessment. Taxpayers protested that assessment and has requested that the Department adjust the assessment to reflect credit for taxes paid to other states.

All tax assessments are prima facie evidence that the Department's claim for the 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 Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463,466 (Ind. 2012). 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); *see also Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an equally reasonable interpretation by another party." *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Indiana imposes a tax on the "adjusted gross income of every resident person." IC § 6-3-2-1(a). Indiana law provides for a credit to Indiana residents for tax paid to other states. IC § 6-3-3-3(a) in relevant part states:

Whenever a resident person has become liable for tax to another state upon all or any part of his income for a taxable year derived from sources without this state and subject to taxation under [IC 6-3-2](#), the amount of tax paid by him to the other state shall be credited against the amount of the tax payable by him. **Such credit shall be allowed upon the production to the department of satisfactory evidence of the fact of such payment**, except that such application for credit shall not operate to reduce the tax payable under [IC 6-3-2](#) to an amount less than would have been payable were the income from the other state ignored.

(Emphasis added).

Taxpayers in their protest have requested that the Department adjust the assessment to provide a credit for taxes paid to other states. However, Taxpayers did not provide tax returns from other states nor an amended Indiana IT-40 showing the outcome of this credit. In order for Taxpayers to receive credit, they must file an amended return and provide proof that taxes were paid to other states. Based on the circumstances in this protest, the Department cannot agree that Taxpayers met their burden under IC § 6-8.1-5-1(c). Taxpayers' protest is therefore denied.

FINDING

Taxpayers' protest is denied.

March 5, 2021

Posted: 06/02/2021 by Legislative Services Agency
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