

**Letter of Findings: 01-20200456
Individual Income Tax
For the Tax Year 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 This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual failed to demonstrate that she did not have additional unreported Indiana taxable income or that the resulting liability was incorrect. She therefore failed to prove that the Department's proposed assessment of additional Indiana individual income tax was incorrect.

ISSUE

I. Individual Income Tax - Federal Discrepancy.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; 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); *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).

Taxpayer protests the imposition of Indiana individual income tax for tax year 2019.

STATEMENT OF FACTS

Taxpayer timely filed her 2019 Indiana income tax return. Taxpayer lives in Indiana but works in Illinois and files income tax returns in both states. In December 2020, the Indiana Department of Revenue ("Department") adjusted Taxpayer's return based on information from the Internal Revenue Service ("IRS") and, supported by the Taxpayer-provided Illinois income tax return, showing that more taxable income had been reported to the IRS than had been reported to the Department. This adjustment resulted in additional Indiana tax due. The Department issued Taxpayer a proposed assessment for that base tax, plus penalty and interest. Taxpayer protested this assessment, opting for the Department to make its written decision based on the materials sent in with the protest. Therefore, no administrative hearing was held. This Letter of Findings is written based on the materials in the protest file. Further facts will be supplied as necessary.

I. Individual Income Tax - Federal Discrepancy.

DISCUSSION

Based upon information received from the IRS, the Department adjusted Taxpayer's 2019 Indiana income tax return, resulting in an increase to Taxpayer's tax liability. Records obtained from the IRS showed that Taxpayer had substantially higher Federal Adjusted Gross Income than what was reported on her 2019 IT-40. This information was further supported when Taxpayer provided her Illinois income tax return showing the higher Federal Adjusted Gross Income. The Department assessed Taxpayer for the increase, plus penalty and interest. Taxpayer claimed that she worked in Illinois and had taxes withheld from her wages paid to Illinois which is not reflected in the assessment.

As a threshold issue, it is the 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 [D]epartment'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. Poorly

developed and non-cogent arguments are subject to waiver. *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 485 n.9 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010).

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.

As stated above, it is Taxpayer's burden to prove that the Department's assessment is incorrect. Taxpayer's Illinois return shows her Federal Adjusted Gross Income is higher on her Illinois return than her Indiana return, these should be the same amounts. Taxpayer is required to provide documentation to support her position. Because Taxpayer failed to provide a copy of her Federal Record of Accounts or show that her Indiana adjusted gross income was properly reported, the statutory presumption is that the proposed assessment is correct. Taxpayer has not presented any evidence demonstrating that her adjusted federal AGI is incorrect. Thus, Taxpayer has failed to meet her burden under IC § 6-8.1-5-1(c). Taxpayer's protest is therefore denied.

FINDING

Taxpayer's protest is respectfully denied.

March 5, 2021

Posted: 06/02/2021 by Legislative Services Agency
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