

Letter of Findings: 01-20221093
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

The Department disagreed with Indiana Resident that the Department's assessment of additional income tax return was wrong; Resident failed to amend the original return, which, under Resident's view, would have offset the challenged assessment.

ISSUE

I. Indiana Individual Income Tax - Jointly Filed Indiana Income Tax Return.

Authority: IC § 6-3-4-2; IC § 6-8.1-5-1; *Indiana Dept. 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 Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer's wife argues that the Department's assessment of additional income tax was erroneous because she was entitled to file a joint Indiana return along with her husband.

STATEMENT OF FACTS

Taxpayer (hereinafter "Taxpayer wife") is an Indiana resident who filed a 2018 "married filing separately" Indiana income tax return. The Indiana Department of Revenue ("Department") responded in a "Notice of Proposed Assessment" ("NOPA") dated December 22, 2021. The NOPA explained that Taxpayer wife owed additional Indiana income tax.

A review of your Indiana Individual Income tax for the tax period ending December 31, 2018, indicates you owe an additional [approximately \$1,600]. This amount represents the full liability due including all assessed penalties and interest to date.

....

The [Department] has determined your reported federal adjusted gross income is understated based on information received by external third-party sources. The sources could include employer information or other income reported to the [Department] by the payer, as well as information received from the Internal Revenue Service.

Taxpayer wife disagreed with the assessment and submitted a protest to that effect. In Taxpayer wife's protest, she asked for a "Final determination without a hearing." This Letter of Findings is written in response to Taxpayer wife's protest.

I. Indiana Individual Income Tax - Jointly Filed Indiana Income Tax Return

DISCUSSION

Taxpayer wife argues that the Department's assessment is wrong because she is entitled to file a "married filed jointly" return. Taxpayer wife explains as follows:

For 2018 tax return[] for [Taxpayer wife], I originally filed my return as married filed separately. My husband []

then noticed that it would [be] more beneficial for our family to file as married jointly. We then sent in the corresponding 2018 amended tax return to the IRS. A few months later we then received our tax [refund?] as we normally would.

Taxpayer wife explains that the \$1,600 Indiana assessment should be abated on the ground that a timely filed amended 2018 "married filing jointly" return would have decreased the amount of tax Taxpayer wife and husband would otherwise owe Indiana.

As with any assessment of Indiana listed taxes, it is Taxpayer wife's responsibility to establish that the proposed assessments of tax, interest, and penalty are incorrect. As stated in IC § 6-8.1-5-1(c) and Indiana case law, "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid, including during an action appealed to the tax court under this chapter. 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).

In meeting that burden, Taxpayer wife is required to provide documentation explaining and supporting her challenge that the Department's position 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).

Taxpayer wife maintains that she has met the requirement as follows:

I have enclosed my tax return transcript that shows both the married filed separately and then the amended filed married jointly tax return for 2018. I should not owe [\$1,600] taxes from 2018.

Taxpayer wife may very well be correct concerning the effect of having filed a "married filing jointly" return. Unfortunately, Taxpayer wife and husband did not do so; they never filed the return required 2018 amended Indiana individual income tax return, Form IT-40X, available at <https://www.in.gov/dor/tax-forms/indiana-state-prior-year-tax-forms/2018-individual-income-tax-forms/> (last visited August 8, 2022), which they now predict would have offset the pending \$1,600 assessment. The Department acknowledges that Taxpayer wife and husband filed an amended federal return, but Taxpayer wife and husband are also required to amend their Indiana return under IC § 6-3-4-2(d) (providing in relevant part, that "Where a joint return is made by husband and wife pursuant to the Internal Revenue Code, a joint return shall be made pursuant to this article. . . ."). In short, Taxpayer wife and husband failed to amend their 2018 Indiana individual income tax return as statutorily required.

As noted above, it is Taxpayer wife's statutory responsibility under IC § 6-8.1-5-1(c) to establish that the Department's assessment was "wrong." In this instance, Taxpayer wife has failed to meet that burden.

FINDING

Taxpayer's protest is respectfully denied.

August 11, 2022

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