

Letter of Findings: 01-20221316
Individual Indiana 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Out-of-State Individual failed to meet his statutory burden of establishing that his Indiana employer overstated the amount of Indiana source income Individual earned; the documentation provided and the information available to the Department did not corroborate Individual's argument.

ISSUE

I. Indiana Individual Income Tax - Corrected Wage Statement.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [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 argues that the Department's assessment of additional income tax was wrong because the assessment was based on his employer's incorrect wage statements.

STATEMENT OF FACTS

Taxpayer resides outside Indiana but filed a 2018 Indiana income tax return reporting income received from his Indiana employer. The Indiana Department of Revenue ("Department") reviewed the return. That review resulted in an assessment of additional tax. In a letter dated March 2022, the Department explained as follows:

Immediate Action Required: A review of your Indiana Individual Income tax for the tax period ending December 31, 2018, indicates you owe an additional [amount]. This amount represents the full liability due including all assessed penalties and interest to date. Details of this amount and the reasons for the assessment are listed below

The notice explains further:

The [Department] has determined your reported federal adjusted gross income [] is understated based on information received from external third-party sources. The sources include information received by the Internal Revenue Service (IRS) employer wage information or other income reported to the [Department] . . .

Taxpayer disagreed with the assessment and submitted a protest to that effect. An administrative hearing was scheduled in order to allow Taxpayer to further explain the basis for the protest; however, Taxpayer chose not to participate. This Letter of Findings results and is based on the documents provided by Taxpayer and Department's own information.

I. Indiana Individual Income Tax - Corrected Wage Statement.

DISCUSSION

The issue is whether Taxpayer has met his burden of establishing that the Department erred in assessing additional 2018 income tax on the ground that the wage/salary information provided by his Indiana employer was incorrect.

Taxpayer explains that his Indiana employer - in the midst of an ownership change - issued two duplicative 1099s. In effect, one of the company owners issued a 1099 and another of the owners issued a second. As a result, Taxpayer maintains that he is being twice assessed income tax on the same amount of Indiana income.

In his April 2022 protest letter, Taxpayer explains:

[Indiana employer] accidentally filed a 1099 form under both owners at 2 different dates. Attached to this letter is a corrected 1099 form from 2018 to cancel out the duplicated form signed by the owner.

Taxpayer suggests that the Department proceed as follows:

I would like all duplicate tax payment requests to be cancelled and my original payment for 2018 to be cancelled and my original payment for 2018 to be considered whole and paid in full.

. . . .

I would like for this letter of protest/request to represent my desire to be in good standing with the State of Indiana and I am found to not owe any back taxes, payments or penalties.

To that end, Taxpayer provided the following documentation:

- Indiana Protest Submission Form;
- Explanatory letter dated April 2022;
- Department's notice of proposed assessment;
- 2018 Form 1099-MISC;
- Form 1096 "Annual Summary and Transmittal of U.S. Information Returns."

Indiana imposes a tax "upon 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\(b\)](#). [IC 6-3-1-3.5\(a\)](#) provides the starting point in determining the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying any particular additions and subtractions. The statute provides in small part that Indiana adjusted gross income starts with "'adjusted gross income' (as defined in Section 62 of the Internal Revenue Code) . . ."

As with any assessment of Indiana listed taxes, it is Taxpayer's responsibility here 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." *See also 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 order to meet the statutory burden of establishing the correctness of his position, each taxpayer challenging an assessment 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. *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).

The Department here notes that the Department's adjustment was based on Taxpayer's federal adjusted gross income. In this instance, neither the documents provided by Taxpayer nor the Department's own records support Taxpayer's position. The Department's records do not have *two* 2018 1099s on file. The corrected 1099 Taxpayer provided is incomplete and does not indicate the amount of 2018 Indiana salary or wages. Likewise, the Form 1096 does not document the amount of 2018 income or the amount of federal income tax withheld. In addition, the Department here notes that the Taxpayer has not provided either an amended 2018 Indiana return or a copy of his 2018 corrected federal return.

The Department is unable to agree that Taxpayer has met his statutory burden under [IC 6-8.1-5-1\(c\)](#) of establishing that the proposed assessment was wrong. In this case, the Department is limited in its ability to address Taxpayer's concerns and can only rely on the information and documentation available to it.

FINDING

Taxpayers' protest is respectfully denied.

December 13, 2022

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