

**Letter of Findings: 01-20221815
Indiana Individual Income Tax
For The Tax Year 2020**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Indiana resident was responsible for additional Indiana income tax for the 2020 tax year.

ISSUE

I. Indiana Individual Income Tax - Burden of Proof.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-8.1-5-1](#); [IC 6-8.1-5-2](#); *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); *Stinson Est. v. United States*, 214 F.3d 846 (7th Cir. 2000).

Taxpayer protests the Department's assessment of individual income tax for the 2020 tax year.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who filed a 2020 Indiana Full-Year Resident Individual Income Tax Return in May 2021 and received a tax refund.

In November 2021, the Indiana Department of Revenue ("Department") determined that, during 2020, Taxpayer received approximately \$5,500 as unemployment compensation but he did not add it back in Line 2 of his 2020 Indiana return. The Department thus adjusted Taxpayer's filing and assessed Taxpayer additional income tax and interest.

Taxpayer protested the assessment and requested that the Department make the determination without an administrative hearing. This Letter of Findings ensues and is based on the documents submitted in protest and on information within the Department's records. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Burden of Proof.

DISCUSSION

The Department assessed additional tax because Taxpayer received approximately \$5,500 in unemployment compensation but Taxpayer failed to report it on his Indiana 2020 return, as statutorily required.

Taxpayer protested, stating, in part:

The reasoning for this protest is due to the fact that the Federal Government has decided that my unemployment was not taxable for the year of 2020, but due to the State of Indiana not following their directive and then deciding to tax I feel that is unjust, especially almost a full year and a half later.

The issue is whether Taxpayer demonstrated that he was not responsible for additional Indiana income tax.

Pursuant to [IC 6-8.1-5-1](#)(b), if the Department "reasonably believes that a person has not reported the proper amount of tax due," the Department must "make a proposed assessment of the amount of the unpaid tax" plus applicable interest and penalties. Under [IC 6-8.1-5-2](#)(a), the Department generally is required to make the

assessment within "three (3) years after the latest of the date the return is filed, or the . . . due date of the return. . . ." 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\(c\)](#); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012).

Additionally, "all statutes are presumptively constitutional." *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579, 587 (Ind. 2014). "Internal Revenue Code provisions dealing with deductions, exemptions, and exclusions are matters of legislative grace." *Stinson Est. v. United States*, 214 F.3d 846, 848 (7th Cir. 2000). 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." *Caterpillar, Inc.*, 15 N.E.3d at 583. Thus, the taxpayer is required to provide documentation explaining and supporting her 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\(a\)](#). To compute what is considered the resident/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 his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

One of the modifications, [IC 6-3-1-3.5\(a\)\(33\)](#), specifically provides:

For taxable years beginning after December 31, 2019, and before January 1, 2021, **add an amount equal to the amount of unemployment compensation excluded from federal gross income** under Section 85(c) of the Internal Revenue Code. (**Emphasis added**).

In this case, Taxpayer received an approximately \$5,500 unemployment compensation in 2020. But when Taxpayer filed his 2020 Indiana return, he did not add back that amount, as statutorily required, under [IC 6-3-1-3.5\(a\)\(33\)](#). Taxpayer admitted that he did not add back that amount, arguing that "Federal Government has decided that my unemployment was not taxable." Further, Taxpayer argued that the assessment "is unjust, especially almost a full year and a half later." Presumably, Taxpayer attempted to argue that the Department's assessment was not timely.

Upon review, Taxpayer is mistaken. [IC 6-8.1-5-2\(a\)](#) permits the Department to make an assessment within three years after the latest of the date the return is filed. Taxpayer's 2020 return at issue was filed in May 2021. As such, the assessment was within the three-year statute of limitations. Also, as mentioned above, "exclusions are matters of legislative grace." In this instance, the Indiana legislators specifically enacted the provision, [IC 6-3-1-3.5\(a\)\(33\)](#), that "the amount of unemployment compensation excluded from federal gross income" must be added back to compute Taxpayer's Indiana adjusted gross income for Indiana income tax purpose. As such, given the totality of the circumstances, in the absence of other supporting documentation, the Department must decline Taxpayer's invitation to address the "unjust" feeling because the Department, as a state agency, is required to enforce the Indiana law.

In conclusion, Taxpayer failed to demonstrate that he was not responsible for the additional tax. Therefore, pursuant to [IC 6-8.1-5-1\(c\)](#), the Department's assessment is correct.

FINDING

Taxpayer's protest is respectfully denied.

January 13, 2023

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