

**Letter of Findings: 01-20221063
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 Indiana Department of Revenue'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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Couple protested the Indiana Department of Revenue's ("Department") proposed assessment of additional Indiana individual income tax for the year 2018; federal documentation provided by the couple clarified what caused the apparent discrepancy, thus the couple met their burden of proof.

ISSUE

I. Individual Income Tax - Proposed Assessment.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3-2-2](#); [IC 6-8.1-5-1](#); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayers protest the proposed assessment of additional Indiana income tax for the year 2018.

STATEMENT OF FACTS

Taxpayers filed a Protest Submission Form ("Form") protesting the Department's proposed assessment of additional Indiana individual income tax for the tax year 2018. On the Form Taxpayers checked the box indicating that they were submitting "new documentation that ha[d] not previously [been] reviewed," and that Taxpayers wanted a "Final determination without a hearing." The latter states that Taxpayers waive the right to a hearing and "asks the Department to make its decision based on the written protest and documentation" Additional facts will be provided as necessary below.

I. Individual Income Tax - Proposed Assessment.

DISCUSSION

The Department, in a letter dated December 15, 2021, stated that a "review of your Indiana Individual Income tax for the tax period ending December 31, 2018, indicates you owe an additional \$1,065.26." The "Explanation for this Assessment" states that the Department "has determined your reported federal adjusted gross income is understated based on information received from external third-party sources" that "could include employer wage information or other income reported to the Indiana Department of Revenue by the payer, as well as information received from the Internal Revenue Service." Further the letter states:

We did not receive your full payment by the original due date. If you received an extension of the due date, we either did not receive at least 90[percent] of expected tax due by the original due date or the tax that remained unpaid during the extension period was not paid by the extended due date. A late payment penalty has been assessed. [IC 6-8.1-6-1](#); [IC 6-8.1-10-2.1](#).

Taxpayers state in their written protest:

We are protesting a Notice of Assessment for unpaid taxes on the amount of \$4,144 dollars. We think there was an error in calculating the amount [of] state income tax for 2018. We would like to request a breakdown of proposed tax to include taxes, penalties and fines. At 3.23[percent] state rate the proposed assessment of \$1,065.26 seems high.

Indiana imposes an adjusted gross income tax on all residents. [IC 6-3-2-1\(a\)](#). 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.

As a threshold issue, it is the Taxpayers' responsibility to establish that the existing tax assessment is incorrect. As stated in [IC 6-8.1-5-1\(c\)](#), "[t]he 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. The Indiana Tax Court has noted that 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).

In the present case, Taxpayers provided supporting documentation from the IRS for the tax year 2018. Upon reviewing that information, the Department discovered that Taxpayers had deducted Social Security income in the amount of \$18,023, without properly reflecting this for their 2018 Indiana income tax return. Pursuant to [IC 6-3-1-3.5\(a\)\(8\)](#), adjusted income is arrived at, in part, by "[s]ubtract[ing] an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code." Once that correction is made, Taxpayers do not owe additional income tax. Thus, Taxpayers have met their burden of proving the proposed assessment is wrong, as required under [IC 6-8.1-5-1\(c\)](#). Taxpayers have also met their burden regarding any penalties assessed for their 2018 Indiana income tax return.

FINDING

Taxpayers' protest of the proposed assessment and penalty is sustained.

April 3, 2023

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