

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

HOLDING

Out-of-State Individual provided information establishing that his Indiana employer's original 1099-MISC form contained a filing error, that Individual received \$21,600 in 2018 compensation, and that the Department was obligated to review Indiana's original return and correct any error attributable to the employer's filing error.

ISSUE

I. Indiana Individual Income Tax - Corrected Income 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 [] 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 to allow Taxpayer to further explain the basis for the protest. Taxpayer chose not to participate, but a Letter of Findings was issued in December 2022 addressing Taxpayer's original protest. The Letter of Findings denied Taxpayer's protest concluding as follows:

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.

Taxpayer disagreed with the decision, Taxpayer submitted a rehearing request, the Department granted the request, an administrative hearing was conducted by telephone, and this Supplemental Letter of Findings results.

I. Indiana Individual Income Tax - Corrected Income Statement.

DISCUSSION

The issue is whether Taxpayer has established that he has provided information sufficient for the Department to revisit Taxpayer's 2018 assessment and correct any errors attributable to his Indiana employer's wage statements.

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 originally 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 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).

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).

In a letter forwarded to the IRS, Taxpayer's representative explained the purported filing error as follows.

This letter is in reference to the above taxpayer's 2018 form 1099-MISC issue[d] to him by [Indiana employer]. Payments of \$25,600 for tax year 2018 were reported on Form 1099-MISC with an incorrect Payer [employer FID].

On July 23, 2019, a request was submitted on behalf of [Indiana employer] to correct the [employer FID] on the 1096 and 1099-MISC forms. However, these forms were added as additional 1099-MISC forms rather than being changed to the correct [employer FID]. As a result, the payments reported were duplicated.

Taxpayer concludes, "The taxpayer's 2018 Personal Income tax return was correct as submitted."

As a result of and subsequent to the rehearing, Taxpayer submitted three documents purporting to document the IRS's and the Department's error.

- Taxpayer submitted the original Form 2018 Form 1099-MISC which identifies the employer's identification number as ending with the four digits 7513.
- Taxpayer submitted a "corrected" Form 2018 Form 1099-MISC which identifies the employer's identification number as ending with the four digits 8728.
- Taxpayer's letter dated February 23, 2023, to the IRS explaining the employer's purported error reporting the \$25,600 twice.

The Department will not attempt to determine what the IRS did or did not do. However, the Department will again review Taxpayer's account and make any adjustments consistent with Taxpayer's explanation, consistent with the original 1099-MISC and the corrected MISC-1099, and consistent with Taxpayer's explanation that he received \$25,600 from his Indiana employer and not \$51,200.

FINDING

To the limited extent set out in this Supplemental Letter of Findings, Taxpayer's protest is sustained.

August 23, 2023

Finding Replaces: New

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