

**Letter of Findings: 01-20231426
Individual Indiana Income Tax
For the Year 2021**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 failed to meet her burden of establishing that Indiana income tax was withheld on her behalf by Resident's Illinois employer and, as a result, Resident remained responsible for additional Indiana income tax.

ISSUE

I. Indiana Individual Income Tax - Taxes Withheld by Out-of-State Employer.

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 Department's failed to recognize the Indiana income tax withheld on her behalf by her Illinois employer.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who routinely files Indiana income tax returns. In a letter dated December 2022, the Indiana Department of Revenue ("Department") notified Taxpayer that it had reviewed Taxpayer's 2021 tax return and found that Taxpayer owed approximately \$1,400 in additional tax, interest, and penalty.

Taxpayer disagreed with the assessment and submitted a protest to that effect. In her protest, Taxpayer explained that she did not owe the tax.

To my knowledge, Indiana State taxes have been taken out of my bi-weekly payment since I have been employed with my [Illinois] employer.

....

I have provided a copy of my W-2 showing that I have been paying Indiana State Taxes even though I am employed in Illinois.

An administrative hearing was scheduled in order to allow Taxpayer the opportunity to explain her protest. This Letter of Findings results.

I. Indiana Individual Income Tax - Taxes Withheld by Out-of-State Employer.

DISCUSSION

The issue is whether Taxpayer has established that her Illinois employer withheld income taxes on her behalf and that she did not owe additional 2021 Indiana income tax.

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 specific 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)" *Id.*

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."

As a result, 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). If a taxpayer provides only a poorly developed or non-cogent argument, the Department will treat that argument as having been waived. *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).

On her original 2021 return, Taxpayer reported that \$1,965 in "Indiana State Income Tax" had been withheld on Taxpayer's behalf. On that return, Taxpayer reported \$646 in local income tax had been withheld.

The Department reviewed the return and found that no "Indiana State Income Tax" had been withheld although it did verify that \$646 in "Indiana Local Income Tax" was withheld together with an amount of federal withholding tax.

As noted above, Taxpayer believes that her Illinois employer withheld Indiana income tax and provided a copy of her 2021 W-2 "Wage & Tax Statement" in order to support that argument. Unfortunately, the document does not substantiate Taxpayer's argument. The W-2 reflects local income tax of \$646 but indicates \$0.00 in "State income tax." The W-2 establishes that neither Illinois nor Indiana state tax was withheld on Taxpayer's behalf during 2021.

Based on the information provided by Taxpayer and on the Department's own record, the Department must conclude that Taxpayer has failed to meet her statutory burden under [IC 6-8.1-5-1\(c\)](#) of establishing that the Department's assessment was wrong.

FINDING

Taxpayer's protest is respectfully denied.

September 28, 2023

Finding Replaces: New

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An [html](#) version of this document.