

**Letter of Findings: 01-20221203
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual protested the Indiana Department of Revenue's proposed assessment of additional Indiana individual income tax for the year 2018 but did not meet her statutory burden of proof.

ISSUE

I. Individual Income Tax - Proposed Assessment.

Authority: [IC 6-3-2-1](#); [IC 6-3-1-3.5](#); [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).

Taxpayer protested the proposed assessment of additional Indiana state income tax for tax year 2018.

STATEMENT OF FACTS

The Indiana Department of Revenue ("Department") issued to Taxpayer a Notice of Proposed Assessment ("Notice") for additional Indiana state income tax for the tax year 2018. Taxpayer filed a Protest Submission Form ("Form") protesting the Department's proposed assessment. On the Form Taxpayer checked the box for an administrative hearing. A telephone hearing was held. Additional facts will be provided as necessary below.

I. Individual Income Tax - Proposed Assessment.

DISCUSSION

In a letter dated December 14, 2021, the Department stated that a "review of your Indiana Individual Income tax for the tax period ending December 31, 2018, indicates you owe an additional \$888.30. This amount represents the full liability due including all assessed penalties and interest to date." The Department's letter also stated, in pertinent part, that the Department:

[H]as determined your reported federal adjusted gross income is understated based on information received from external third-party sources. The sources 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. This bill is for the state and county tax amount due for this unreported income.

The Department's letter goes on to state that a "late payment penalty has been assessed" along with interest being "calculated on all unpaid taxes. . ."

As a threshold issue, it is Taxpayer's 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." *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). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept.*

Indiana imposes an adjusted gross income tax on all residents. [IC 6-3-2-1\(a\)](#). The Indiana Code also addresses when a taxpayer is a resident of Indiana "for a period of less than the taxpayer's entire taxable year[.]" [IC 6-3-1-3.5\(a\)\(9\)](#); see also [IC 6-3-2-1\(b\)](#). Taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. [IC 6-3-1-3.5\(a\)](#).

Turning to Taxpayers' argument, she states regarding the Department's Notice:

I do not believe this is accurate to the income I made in the state of Indiana in the year 2018. I have attached my W-2 from my place of employment in Indiana to show this, as well as my 2018 Indiana tax return.

When my Indiana taxes were filed in April of 2019 for the year of 2018, I was given a return that was accurate to the excess taxes deducted from my payroll. In 2018 I worked in the state of Indiana starting on October 14th of that year.

During the telephone hearing, Taxpayer explained that in 2018 she lived and worked in New Jersey until she moved to Indiana in October of 2018. Taxpayer stated that she incorrectly filed an IT-40 Indiana tax return for 2018, but later in 2022 filed an amended partial year return.

Taxpayer's protest failed to meet the burden imposed under [IC 6-8.1-5-1\(c\)](#) of proving the proposed assessment is incorrect. Taxpayer also did not develop any argument regarding penalty and interest. The Department also notes that its records show that Taxpayer originally filed a 2018 IT-40 and as a result received a refund. Taxpayer subsequently filed an amended Indiana return for 2018 to reflect that she was a part-year resident of Indiana for that year; when Taxpayer filed the amended return, she incorrectly reported the county tax withheld as \$252 when it should have been a lesser amount. The Department adjusted the return to reflect the correct amount of county tax withheld.

FINDING

Taxpayer's protest is denied.

October 31, 2023

Findings Replaces: New

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