

Letter of Findings: 01-20231252
Individual 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 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 was unable to provide sufficient documentation showing the Department's assessment was wrong.

ISSUE

I. Individual Income Tax - Assessment.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3-4-5](#); [IC 6-3-4-8](#); [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 462 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); [45 IAC 3.1-1-97](#).

Taxpayer protests the assessment of additional individual income tax.

STATEMENT OF FACTS

Taxpayer is an Indiana resident and filed an Indiana individual tax return for tax year 2021. After review, the Indiana Department of Revenue ("Department") determined Taxpayer owed additional income tax and issued a Notice of Proposed Assessment. Taxpayer protested the assessment and requested resolution with a hearing. Prior to scheduling a hearing, the Department contacted Taxpayer and requested additional information. Taxpayer provided copies of additional documents. A hearing was scheduled, and Taxpayer failed to appear. A short time later, Taxpayer contacted the Department and explained why she did not attend the scheduled hearing. The Department scheduled a rehearing, which Taxpayer also failed to attend. This Letter of Findings results. Additional facts will be provided as necessary.

I. Individual Income Tax - Assessment.

DISCUSSION

The Department determined Taxpayer owed additional income tax after reviewing information related to her 2021 Indiana tax return. Taxpayer disagreed and protested the assessment. In support of the protest, Taxpayer provided copies of three W-2s and her federal Form 1040 for tax years 2019 and 2020.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. A proposed assessment is prima facie evidence that the Department's claim for the unpaid tax is valid. [IC 6-8.1-5-1\(c\)](#). The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. *Id.*; See e.g., *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). An assessment, including Taxpayer's penalty assessment, is therefore presumed valid. A taxpayer must provide documentation explaining and supporting that the Department's position is wrong. Additionally, "[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. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

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](#). There is a presumption that a taxpayer files his/her federal income tax return as required by the Internal Revenue Code. Thus, to effectively compute what is considered a taxpayer's Indiana income tax, Indiana law refers to the Internal

Revenue Code. [IC 6-3-1-3.5](#) provides a starting point in determining a taxpayer's taxable income and calculating what would be his/her Indiana income tax after applying certain additions and subtractions, with any necessary modifications following. Modifications are outlined in [IC 6-3-1-3.5\(a\)](#).

[IC 6-3-4-8\(a\)](#) provides that employers must "withhold, collect, and pay over income tax on wages paid by such employer to such employee, shall, at the time of payment of such wages, deduct and retain therefrom the amount prescribed in withholding instructions issued by the department." [45 IAC 3.1-1-97](#) states that employers must "withhold Federal taxes pursuant to the Internal Revenue Code," and are also "required to withhold from employees' wages Adjusted Gross and County Adjusted Gross Income Tax." [IC 6-3-4-8\(a\)\(1\)](#) specifically provides that the employer is "liable to the state of Indiana for the payment of the tax required to be deducted and withheld." However, if the withheld amount by employer is insufficient to pay the total tax due by a taxpayer (i.e., an employee), then the taxpayer is required to pay the unpaid taxes at the time he/she files his/her income tax return. [IC 6-3-4-8\(i\)](#); see also [IC 6-3-4-5](#).

During tax year 2021, Taxpayer was employed by four different employers. As a result, Taxpayer had four W-2s for the tax year. During the protest, Taxpayer provided copies of three of the W-2s. The Department's review of those W-2s shows that two employers withheld both state and local taxes from Taxpayer's wages. The third W-2 shows that employer only withheld state taxes. Taxpayer did not provide a copy of the fourth W-2, so it is unknown what taxes, if any, were withheld from Taxpayer's wages by that employer.

Additionally, while Taxpayer provided copies of her federal tax returns for tax years 2019 and 2020, that information is not particularly helpful to the issues related to tax year 2021. Despite repeated requests, Taxpayer declined to provide copies of her federal and state income tax returns for tax year 2021.

At least one of Taxpayer's employers failed to withhold the correct amount of taxes on Taxpayer's behalf. As such, Taxpayer was liable for any deficit under [IC 6-3-4-8\(i\)](#). Further, Taxpayer declined to provide additional documentation that may have clarified the situation. Thus, Taxpayer has not shown the Department's assessment was wrong pursuant to [IC 6-8.1-5-1](#).

FINDING

Taxpayer's protest is denied.

November 3, 2023

Finding Replaces: New

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