

**Letter of Findings: 01-20231759**  
**Individual Indiana Income Tax**  
**For the Year 2017**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

The Department was unable to agree with Former Indiana Resident that she established that the assessment of additional income tax was wrong. Former Resident failed to provide the specific information requested by the Department, and the information that was provided was incomplete, ambiguous, or irrelevant.

### ISSUE

#### I. Indiana Individual Income Tax - Amended 2017 Return.

**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 Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); Income Tax Information Bulletin 28 (November 2023); Income Tax Information Bulletin 28 (November 2016).

Taxpayer argues that the Department's assessment of additional 2017 income tax was wrong because Taxpayer correctly reported Taxpayer's Indiana adjusted gross income.

### STATEMENT OF FACTS

Taxpayer is a former Indiana resident who filed an Indiana income tax return.

During November 2022, Taxpayer filed a 2017 amended Indiana income tax return. In a written response dated August 2022, the Indiana Department of Revenue ("Department") requested additional information as follows:

[The Department] is unable to locate an original 2017 tax return on file for your Social Security number. Please provide a complete copy of your Individual Income Tax Return including all schedules, all wage statements (W-2s, 1099s, etc.) and/or IN K-1s. If a payment was made with the original return, please provide a legible copy of the front and back of the cancelled check.

In the apparent absence of the requested original return, the Department reviewed the amended return and responded in a letter dated November 2022. The letter indicated that Taxpayer owed additional Indiana income tax return.

A review of your Indiana Individual Income tax for the tax period ending December 31, 2017, indicates you owe an additional [approximately \$5,000]. 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 with additional information on page two of this notice.

- Page two of the November 2022 notice indicated that "[a]n error was made in determining your income subtotal (adding federal AGI plus your total addbacks from Schedule 1)."
- The letter also explained that Taxpayer failed to attach Schedule IN-DEP which provides dependent information.
- In addition, the Department noted that Taxpayer failed to include form CT-40 representing [County Income Tax] and that the Department was "fill[ing] it out based on the information included with the return."
- Finally, the Department "adjusted Line 2 of Schedule 3 to match the number of qualifying dependents on Schedule IN-DEP multiplied by \$1,000." The line referred to was to "Claim an additional exemption for each dependent child."

In the continued absence of the original 2017 return, the Department "posted" the amended 2017 return "as the original return." The Department explained this decision in a letter dated April 2023. The letter explained:

- "We have received an amended return but we never received an original return. Your amended return was posted as an original return. After reviewing documents, you have submitted, per the W-2, you had no Indiana income, the W-2 is for Illinois wages and withholding."
- "Please review all W-2s as to where your income and withholdings were reported to Indian or Illinois. If the income from [law school] was reported to Illinois in full you should not be filing a[n] Indiana return. You would need to file an amended IN return, providing a copy of our Illinois return showing all wages [were] subject[] to Illinois tax not Indiana."

Some two months later, the Department issued Taxpayer a "Demand Notice for Payment" dated June 2023. The letter stated:

- "The Indiana Department of Revenue [] requires a response from you within 20 days from the date of this notice. If you fail to respond within this 20-day period, a tax warrant (not an arrest warrant) will be issued . . ."
- "You are required to make a payment no later than June 26, 2023, or show reasonable cause with supporting documentation for not paying. Failure to do so will convert this notice to a tax warrant and be referred for immediate collection action "

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. An administrative hearing was scheduled in order to allow Taxpayer to explain the basis for that protest. This Letter of Findings results.

## I. Indiana Individual Income Tax - Amended 2017 Return.

### DISCUSSION

The issue is whether Taxpayer has met her burden of establishing that the Department made a mistake when it issued a demand notice assessing approximately \$4,800 in 2017 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 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).

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).

Taxpayer explained that the reason she submitted the amended return.

In early 2022, I received a letter from the Maryland Department of Revenue indicating that there was an additional W-2 tax statement (attached). Upon receiving the document, I filed an amended federal tax return, IN state tax return and MD state income tax return . . . My Indiana State Tax Return included a check for the additional tax due [].

Taxpayer included copies of W-2s issued by her Illinois employer. Those W-2s, along with the amended return, showed that Taxpayer lived in Indiana during 2017. The W-2s indicated that the Illinois employer withheld Illinois income tax.

Taxpayer also provided undated copies of her 2017 Maryland and federal income tax returns.

However, the Department here notes that Taxpayer failed to provide a copy of the check which - according to her - accompanied her amended Indiana return. In addition, the Department notes that there is no indication Taxpayer provided the Department with the information requested in the August 2022 or December 2023 letters.

Stepping through the narrative, the Department finds that there are numerous and/or unresolved issues. Taxpayer filed an *amended* return but apparently never filed original return. Taxpayer explained she accompanied the amended return with a check for \$673 but the Department's records lack any evidence of that payment. Taxpayer failed to explain the significance of the Illinois W-2s. In what way were the Illinois returns relevant to the amended Indiana return?

Of course, the Department recognizes that if the Illinois return was filed, Taxpayer would have been entitled to a dollar-for-dollar credit for tax dollars Taxpayer paid Illinois.

When a person receives income from any state, possession, or foreign country other than those covered in sections on Reciprocal Agreement States and Reverse Credit Agreement States, the taxpayer might be required to pay income taxes to both jurisdictions. The taxpayer may take a credit for taxes paid to other states against the taxpayer's Indiana adjusted gross income tax liability. Income Tax Information Bulletin 28 (November 2023). See also Income Tax Information Bulletin 28 (November 2016), 20220223 Ind. Reg. 045220044NRA.

However, without more information, it is not possible to assist Taxpayer in these issues or to agree with Taxpayer that she has met 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.

December 13, 2023

*Replaces Finding Document at: New*

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