

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

HOLDING

The Department agreed with Former Indiana Resident that the assessment of additional Indiana income tax was incorrect. Former Resident provided information establishing that Former Indiana Resident was entitled to claim a "credit" for 2017 income taxes paid in Maryland and Illinois.

ISSUE

I. Indiana Individual Income Tax - Amended 2017 Return.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3-3-3](#); [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 2022); 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 Indiana 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. Letter of Findings 01-20231759 (December 13, 2023) ("LOF") was issued denying Taxpayer's protest. The LOF concluded that the information provided by Taxpayer was insufficient to verify Taxpayer's argument. In other words, Taxpayer's argument was "poorly developed" and not persuasive.

Taxpayer disagreed with the LOF's conclusion and requested that the matter be revisited. Another administrative hearing was conducted in order to allow Taxpayer another opportunity to present her case. This Supplemental Letter of Findings ("SLOF") results.

I. Indiana Individual Income Tax - Amended 2017 Return.

DISCUSSION

The issue is whether Taxpayer has met her burden of establishing that the assessment of additional Indiana income tax was wrong or overstated based on the additional documentation provided.

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).

As noted in the original LOF, Taxpayer explained that the Indiana amended return was submitted in response to receiving an additional W-2 tax statement, that she filed an amended federal income tax return, and filed an amended Maryland income tax return.

The LOF noted that "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."

Taxpayer has now explained that the Illinois return was filed electronically and that Taxpayer is now able to document that the \$3,037 in 2017 Illinois tax was paid.

As such, [IC 6-3-3-3](#) provides in part as follows.

Whenever a resident person has become liable for tax to another state upon all or any part of his income for a taxable year derived from sources without this state and subject to taxation under [IC 6-3-2](#), the amount of tax paid by him to the other state shall be credited against the amount of the tax payable by him. Such credit shall be allowed upon the production to the department of satisfactory evidence of the fact of such payment, except that such application for credit shall not operate to reduce the tax payable under [IC 6-3-2](#) to an amount less than would have been payable were the income from the other state ignored.

Considering both the 2017 income tax paid Illinois and the \$350 in tax paid Maryland, Taxpayer has provided "satisfactory evidence" documenting a total of \$3,387 in taxes paid to states other than Indiana. Taxpayer is entitled to claim a "credit" on her corresponding Indiana return to the extent that the income reported in Illinois and Maryland was also reported to Indiana except to the extent that the Indiana "credit" may not exceed the amount of tax owed Indiana.

The "credit" principle is restated in the Department's Information Bulletin.

When a person receives income from any state, possession, or foreign country other than those covered in sections IV and V 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 2022). See also Income Tax Information Bulletin 28 (November 2016), 20220223 Ind. Reg. 045220044NRA.

Two issues remain unresolved. As the Department explained in the April 2023 letter sent Taxpayer, "We have received an amended return, but we never received an original return." For purposes of this SLOF, the Department adopts the position stated in that same April 2023 letter when it decided that "[y]our amended return was posted as an original return."

The second unresolved issue is Taxpayer's assertion that she submitted a \$637 check along with the amended return. A search of Taxpayer's accounts does not have a record of the payment. The Department conducted a search of all checks submitted to the Department during the relevant period. However, the Department was unable to locate an unaccounted for \$637 payment.

To the extent that this SLOF concludes that Taxpayer is entitled to claim a credit for income taxes paid Illinois and Maryland in 2017, Taxpayer's protest is sustained. In all other respects, Taxpayer's protest is denied.

FINDING

As called for in this SLOF, Taxpayer's protest is sustained.

January 9, 2024

Replaces Finding Document at: New

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