

Letter of Findings: 01-20210053
Individual Income Tax
For the Years 2016 and 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 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Individual was unable to establish that any past or pending assessment of additional income tax was wrong; nothing in the records of either of the two years at issue indicated that the Department misapplied any of Individual's payments or miscalculated interest or penalty charges.

ISSUE

I. Individual Adjusted Gross Income Tax - Assessment and Refund Denial.

Authority: IC § 6-8.1-5-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 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 misapplied his individual income tax payments, that he was not liable for any past or pending assessment of additional tax, and that Taxpayer is now entitled to a tax refund.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who files and pays Indiana income tax. In particular, Taxpayer filed 2016 and 2018 income tax returns. Taxpayer entered into a payment plan with the Indiana Department of Revenue ("Department") in order to address and pay any unremitted tax.

The Department adjusted Taxpayer's 2016 return in order to reflect an adjustment at the federal level. Taxpayer requested a transcript of his 2016 Indiana tax records in order to verify that the Department's records were correct and that his settlement payments had been properly recorded.

Taxpayer also requested a transcript of his 2018 Indiana tax records again to verify that the Department's records were correct and any payments he had made were properly and correctly recorded.

Taxpayer argues that he never received the requested transcripts and was frustrated in his attempts to receive the information he sought. According to Taxpayer, the amount of tax which the Department previously asserted is owed - approximately \$400 - is incorrect and that he is, in fact, owed an additional refund.

Taxpayer submitted a protest challenging the Department's stance on these assessment and refund issues. An administrative hearing was conducted by telephone during which Taxpayer explained the basis for the protest. This Letter of Findings results.

I. Individual Adjusted Gross Income Tax - Assessment and Refund Denial.

DISCUSSION

The issue is whether Taxpayer has established that the Department's past or pending assessment was wrong, and that Taxpayer is entitled to a refund of individual income tax.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect.

As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department'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.*" *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007) (*Emphasis added*).

Thus, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *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). 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. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, interpretations of Indiana tax law contained within this decision are entitled to judicial deference.

Subsequent to the administrative hearing, Taxpayer was provided with spreadsheets of Taxpayer's DOR records. A review of the 2016 transcript shows 20 different entries beginning in 2017 and ending in 2020. Among those entries are records of 7 different paper or electronic payments, 8 different penalty or interest charges, 1 refund, 1 original tax return, and one amended tax return. The transcript indicates the "Balance to Date" is \$0.00 and the "Financial Balance" is \$0.00.

The 2018 transcript is somewhat lengthier. A review of the 2018 transcript shows 28 different entries beginning in 2019 and ending in 2021. Among those entries are records of 12 different paper or electronic payments, 13 different penalty or interest charges, and 1 original tax return. The transcript indicates the "Balance to Date" is approximately \$0.00 and the "Financial Balance" is identical.

Taxpayer raises particular issues with a number of particular account entries. According to Taxpayer, he made a payment of \$53.11 which was never accounted for. The Department finds no records of a payment in that amount, but it does show that a refund request of \$53.11 was received February 21, 2021 by and denied by the Department April 18, 2021.

Taxpayer indicates that he received a notice of liability on April 8, 2021 for \$279.93. Taxpayer states that this notice, number 2016-04104421, received April 8, 2021, is not included on the transcript provided to Taxpayer during the course of the protest process. However, the liability was cancelled and notice to that effect sent Taxpayer.

Taxpayer notes that the transcript indicates a \$349 transaction which is unaccounted for. The Department's records indicates that this transaction was the result of an amended return postmarked November 16, 2020.

Taxpayer also points that a \$282.11 amount was credited to his account on December 3, 2020 but was then backed out "without notice of explanation." However, as Taxpayer admits, the change results in "zero." In the cases of the \$282.11 adjustments, the issue is moot.

A review of both the 2016 and 2018 transcripts does not reveal that the Department misapplied payments, payments which were applied to the wrong period, or a miscalculation of the amount of penalty or interest charges.

Taxpayer complains that the Department has mismanaged his account and made changes to that account without proper notice. As Taxpayer explains:

I feel that the DOR has exhibited an inadequate history of promptly and clearly providing notices without explanations in addition to not timely or any responses to my numerous correspondence and follow-up requests asking for assistance.

However inadequate its response may have been, the Department notes that it has exchanged written correspondence with Taxpayer on 29 occasions over the two years under protest.

Taxpayer has not successfully pointed to or specifically challenged any of the entries on either of the two transcripts.

The Department does not agree that any assessment originally generated by the Department was wrong. As of the date this Letter of Findings was issued, Taxpayer has no pending liability, and a copy of the Department's outstanding liability spreadsheet attests to that fact. (A copy of that spreadsheet will accompany this Letter of Findings.) As pointed out at the outset, it is Taxpayer's responsibility to establish clearly that a tax assessment (past or present) was or is incorrect. Taxpayer has not met his statutory burden under IC § 6-8.1-5-1(c) of cogently establishing that any previous assessment was wrong or that he is now entitled to a refund.

FINDING

Taxpayer's protest is respectfully denied.

May 7, 2021

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