

**Letter of Findings Number: 06-0527
Adjusted Gross Income Tax
For the Tax Period 2002**

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ISSUE

1. Adjusted Gross Tax-Credit for Estimated Taxes Paid

Authority: [IC 6-8.1-5-1](#)(b); [IC 6-3-2-1](#)(a); [IC 6-3-4-4.1](#)(c); 26 USC 6015(b)(1)(B); IC § 6-3-4-8(a).

The Taxpayer protests the disallowance of a credit for estimated taxes paid.

STATEMENT OF FACTS

The Taxpayer and her former husband were divorced in January 2003. For tax year 2002, they each filed married but separate Indiana adjusted gross income tax returns. The Taxpayer claimed fifty percent of the couple's 2002 estimated tax payments as a credit against her taxes due. The Indiana Department of Revenue (Department) disallowed this credit and adjusted the taxpayer's income tax liability. Subsequently, the Department assessed the additional income tax, penalty, and interest against the Taxpayer. The Taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

1. Adjusted Gross Income Tax-Credit for Estimated Taxes Paid

DISCUSSION

All tax assessments are presumed to be valid. IC § 6-8.1-5-1(b). The Taxpayer bears the burden of proving that any assessment is incorrect. *Id.*

Indiana imposes an adjusted gross income tax on Indiana residents. IC § 6-3-2-1(a).

Employers deduct and remit withholding taxes from wages pursuant to the provisions of IC § 6-3-4-8(a) as follows:

[E]very employer making payments of wages subject to tax under this article, regardless of the place where such payment is made, who is required under the provisions of the Internal Revenue Code to 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 there from the amount prescribed in withholding instructions issued by the department....

Individuals remit estimated Indiana adjusted gross income taxes on income not subject to withholding pursuant to the provisions of [IC 6-3-4-4.1](#)(c) as follows:

Every individual who has gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year.

The Taxpayer was employed during the tax year 2002. Her employer withheld Indiana taxes from her wages. The Taxpayer's ex-husband made estimated payments based upon his retirement income throughout the tax year 2002.

The Taxpayer argued that she was entitled to claim a credit for a portion of the couple's estimated tax payments on her return pursuant to 26 USC 6015(b)(1)(B). The Taxpayer erred in this conclusion. The cited section of the Internal Revenue Code concerns relief from joint and several liability on a married filed jointly return. The Taxpayer did not file a joint return with her ex-husband for the year 2002. Therefore, she is not automatically entitled to a portion of the estimated tax payments.

Since the Taxpayer and her ex-husband each filed individual tax returns, the Department must examine the source of the estimated tax payments which the Taxpayer claims. Each taxpayer's return should have reported the income of the individual taxpayer. Each return also should have given credit for payments remitted by the individual taxpayer. The Taxpayer's ex-husband remitted the estimated tax payments at issue to satisfy his separate Indiana adjusted gross income tax liability. The withholding from the Taxpayer's salary was credited to the Taxpayer's Indiana adjusted gross income tax liability. She did not remit any of the estimated payments at issue.

The Taxpayer was not eligible for a credit based on the estimated taxes which the Taxpayer's ex-husband remitted to satisfy his individual Indiana adjusted gross income tax liability on income not subject to withholding.

FINDING

The taxpayer's protest is denied.

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