

**Letter of Findings Number: 07-0587  
Individual Income Tax  
For the Period 2005**

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**ISSUE**

**I. Individual Income Tax – Imposition.**

**Authority:** IC § 6-3-1-3.5; I.R.C. § 102; I.R.C. § 691.

Taxpayer protests the assessment of individual income tax.

**STATEMENT OF FACTS**

Taxpayer is an individual. In 2005, Taxpayer received a lump-sum distribution from a retirement plan that she inherited from her deceased mother. Taxpayer's mother's estate reported the retirement plan at full value on the mother's Indiana inheritance tax return.

Taxpayer reported the gross amount of the distribution on her federal income tax return. However, Taxpayer did not report the amount on her Indiana individual income tax return. The Department determined that the distribution was income for Indiana tax purposes and assessed tax, interest, and penalty. Taxpayer protested the assessment. The Department conducted an administrative hearing, and this Letter of Findings results.

**I. Individual Income Tax – Imposition**

**DISCUSSION**

Taxpayer's protest is based on two grounds. The first argument is that the income was an inheritance and therefore not subject to income tax. Taxpayer argues that the distribution was a "special distribution" and thus not subject to income tax. Taxpayer also argues that her mother's retirement plan trustee did not present Taxpayer any options other than total distribution.

While inheritances themselves are generally not subject to tax under I.R.C. § 102, the income from such property is subject to income tax under I.R.C. § 102(b).

Under IC § 6-3-1-3.5(a), an individual's income tax computation starts with federal adjusted gross income. After certain modifications set forth under IC § 6-3-1-3.5(a) and other sections, a taxpayer arrives at Indiana adjusted gross income. Nowhere in the code is an exemption, deduction, or other modification for income items previously subject to inheritance tax or for inherited retirement plans.

Taxpayer has not provided an Internal Revenue Code citation for the exemption from income tax that she is claiming, nor any reference to any other Internal Revenue Service case, ruling, publication, or other document indicating that the retirement plan distribution in question was not subject to income tax.

Taxpayer's second argument is that, by being taxed both for income tax and inheritance tax purposes, the retirement plan would be subject to double taxation. However, the income tax code and the inheritance tax code work in such a manner that certain items—retirement plans, annuities, etc.—are taxed under both tax regimes. See I.R.C. § 691 (income in respect of a decedent), notably § 691(c) and (d). Taxpayer's receipt of the retirement plan proceeds is one of those instances.

**FINDING**

Taxpayer's protest is denied.

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