

**Letter of Findings Number: 09-0445
Individual Income Tax
For the Year 2007**

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ISSUE

I. Individual Income Tax – Imposition.

Authority: IC § 6-3-3-12.

Taxpayers protest the assessment of individual income tax.

STATEMENT OF FACTS

Taxpayers are a married couple. Prior to December 13, 2007, Taxpayers had not established an account with the Indiana College Choice 529 Plan ("529 Plan"). Taxpayers mailed their account registration and contributed a \$5,000 check to the 529 Plan Administrator. However, the 529 Plan Administrator did not post the check until early 2008.

On Taxpayers' 2007 individual income tax return, Taxpayers claimed a \$1,000 credit based on the above-referenced contribution. The Indiana Department of Revenue ("Department") disallowed the credit and assessed additional tax that would have been due absent the credit. Taxpayers protested the assessment, the Department conducted an administrative hearing, and this Letter of Findings results.

I. Individual Income Tax – Imposition

DISCUSSION

Taxpayers protest the disallowance of the credit for contribution to the 529 Plan. In particular, Taxpayers argue that they made the payment during 2007 and the envelope with the payment was postmarked in 2007; therefore, Taxpayers conclude that they relinquished their rights to the funds in 2007 and were eligible for the credit.

IC § 6-3-3-12(i) states:

A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by [IC 6-3-1](#) through [IC 6-3-7](#) for a taxable year equal to the least of the following:

- (1) Twenty percent (20 [percent]) of the amount of the total contributions made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year.
- (2) One thousand dollars (\$1,000).
- (3) The amount of the taxpayer's adjusted gross income tax imposed by [IC 6-3-1](#) through [IC 6-3-7](#) for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by [IC 6-3-1](#) through [IC 6-3-7](#).

The issue is whether the 529 Plan contributions were made in 2007. Taxpayers have provided sufficient information to conclude that their contribution was in fact made in 2007; therefore, Taxpayer's protest is sustained.

FINDING

Taxpayers' protest is sustained.

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