

**Letter of Findings Number: 09-0868P**  
**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. Taxpayers had established an account with the Indiana College Choice 529 Plan ("529 Plan"). Taxpayers gave a check to a representative of the company that administered the 529 Plan on December 31, 2007. The check was not processed until January 2008.

On Taxpayers' 2007 individual income tax return, Taxpayers claimed a 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 submitted the check prior to the end of 2007 and therefore the check should qualify as a 2007 contribution to the 529 Plan.

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 contribution was made in 2007. Taxpayers have provided sufficient information to conclude that their contribution was in fact made in 2007; therefore, Taxpayers' protest is sustained.

**FINDING**

Taxpayers' protest is sustained.

*Posted: 02/24/2010 by Legislative Services Agency*

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