

**Letter of Findings: 01-20160526
Individual Income Tax
For the Year 2015**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individuals were not entitled to claim as a deduction on their 2015 Indiana income tax a repayment amount made to their insurance company despite having paid tax on the insurance benefits on their 2013 and 2014 returns.

ISSUE

I. Individual Income Tax - Claim of Right Refund.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1(b); [45 IAC 3.1-1-1](#).

Taxpayers argue that they are entitled to a refund of Indiana income tax on the ground that they had been required to return money which their employer's insurance company had previously paid them.

STATEMENT OF FACTS

Taxpayers are a married couple who filed joint Indiana individual income tax returns for 2013, 2014, and 2015. During 2013 and 2014, Taxpayers reported receiving approximately \$49,000 in disability payments from their insurance company. Taxpayers paid Indiana income tax on those payments.

The insurance company's policy required as follows:

If Social Security does award benefits, this will result in an overpayment by us. You must supply us with a copy of the Social Security decision and repay any overpayment.

Subsequently, Social Security paid Taxpayers approximately \$24,000 in benefits. Taxpayers repaid this amount to the insurance company.

On their 2015 Indiana income tax return, Taxpayers reported the \$24,000 repayment and claimed the repayment as a schedule 2 deduction.

The Indiana Department of Revenue ("Department") disallowed the \$24,000 deduction and assessed Taxpayers additional income tax. Taxpayers disagreed with the assessment and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayers explained the basis for the protest. This Letter of Findings results.

I. Individual Income Tax - Claim of Right Refund.

DISCUSSION

According to Taxpayers, Indiana should recognize the \$24,000 deduction on their state return allowing a reduction in the amount of tax assessed by the Department.

Indiana imposes an income tax on "the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(b).

IC § 6-3-1-3.5 states as follows: "When used in [IC 6-3](#), the term 'adjusted gross income' shall mean the following: (a) In the case of all individuals 'adjusted gross income' (as defined in Section 62 of the Internal Revenue Code) .

... " Thereafter, the statute specifies addbacks and deductions, peculiar to Indiana, which modify the federal adjusted gross income amount. The Department's regulation concisely restates the same formulary principal. [45 IAC 3.1-1-1](#) defines individual adjusted gross income as follows:

Adjusted Gross Income for Individuals Defined. For individuals, "Adjusted Gross Income" is "Adjusted Gross Income as defined in Internal Revenue Code § 62 modified as follows:

- (1) Begin with gross income as defined in section 61 of the Internal Revenue Code.
- (2) Subtract any deductions allowed by section 62 of the Internal Revenue Code.
- (3) Make all modifications required by [IC 6-3-1-3.5\(a\)](#).

The Department does not agree that Taxpayers were entitled under Indiana law to deduct the \$24,000 on their 2015 Indiana return. There is no statutory provision for taking itemized ("below-the-line") deductions unless specifically permitted under Indiana law. Taxpayers were unable to point to such a provision allowing them to deduct the \$24,000 repayment because there is none.

FINDING

Taxpayers' protest is respectfully denied.

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