

**Letter of Findings: 01-20160664  
Indiana Individual Income Tax  
For The Tax Year 2013**

**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 Indiana Department of Revenue's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded by the publication of another document in the Indiana Register.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 did not owe additional Indiana income tax because they did not have unreported taxable income.

### **ISSUE**

#### **I. Individual Income Tax - Adjustments.**

**Authority:** I.R.C. § 61; I.R.C. § 62; I.R.C. § 121; IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; Lafayette Square Amoco, Inc. v. Ind. Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

Taxpayers protest the imposition of Indiana adjusted gross income tax with respect to a reported increase to their federal adjusted gross income.

### **STATEMENT OF FACTS**

Taxpayers are married individuals residing in Indiana. Taxpayers filed Indiana and federal income tax returns for tax year 2013. The Internal Revenue Service subsequently determined that Taxpayers had underreported their income and adjusted Taxpayers' 2013 federal adjusted gross income. The resulting change in federal adjusted gross income resulted in Taxpayers' Indiana adjusted gross income being redetermined to reflect the revised federal adjusted gross income. The Indiana Department of Revenue ("Department") assessed Taxpayers additional tax for 2013, which Taxpayers protested.

An administrative phone hearing was held. This Letter of Findings results and addresses Taxpayers' protest of the proposed assessment for the tax year 2013. Additional facts will be provided as necessary.

#### **I. Individual Income Tax - Adjustments.**

### **DISCUSSION**

Taxpayers protest the imposition of additional individual income tax for 2013. Taxpayers state that, subsequent to an adjustment of income by the Internal Revenue Service, a correction was made to their federal adjusted gross income. This correction occurred after the Department's assessment of additional state income tax. The Internal Revenue Service ultimately determined that no additional tax was due because the additional income was related to the sale of Taxpayers' principal residence.

As a threshold issue, all tax assessments are prima facie evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); Lafayette Square Amoco, Inc. v. Ind. Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

The Department determined that, pursuant to federal adjustments, Taxpayers had underreported their income and made assessments of additional income tax. The assessments were made based upon the authority contained within IC § 6-8.1-5-1(b), which states, "If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department."

Adjusted gross income tax is imposed on an individual's adjusted gross income under IC § 6-3-2-1. Pursuant to IC § 6-3-1-3.5, "Adjusted gross income" shall mean an individual's "adjusted gross income" as defined in Section 62

of the Internal Revenue Code with certain enumerated modifications. I.R.C. § 62 defines an individual's "adjusted gross income" as gross income minus certain enumerated deductions. I.R.C. § 61 defines "gross income" as all income from whatever source derived.

I.R.C. § 121(a) provides:

**(a) Exclusion.**--Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

The Department adjusted Taxpayers' Indiana adjusted gross income based on information received from the Internal Revenue Service showing that Taxpayers' 2013 federal adjusted gross income had been underreported based on amounts reported on a form 1099-S. Taxpayers filed an amended federal tax return showing that this amount was properly excluded because the 1099-S reported proceeds from a real estate transaction related to the sale of their personal residence, and that they met the other requirements of I.R.C. § 121. The IRS accepted Taxpayers amended return with the AGI as originally reported and canceled the additional federal tax liability.

At the hearing, Taxpayer provided their 2013 amended federal income tax return and corrected bill from the IRS reflecting their adjusted gross income as originally reported on both their federal and Indiana income tax returns, as well as the IRS transcript reflecting the adjustment. Based upon the Internal Revenue Service's review and adjustments, Taxpayers have provided sufficient legal and factual grounds to prove that the Department's proposed assessment was incorrect, and has met the burden imposed by IC § 6-8.1-5-1(c).

### FINDING

Taxpayers' protest is sustained.

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