

**Memorandum of Decision: 01-20170182R
Individual Income Tax
For the Year 2013**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of 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. The "Holding" section is provided for the convenience of the reader and is not part of the analysis contained in this document.

HOLDING

Married couple that amended their Indiana income tax return for the year 2013 provided documentation supporting their position that the claimed refund was properly due.

ISSUE

I. Adjusted Gross Income Tax—Amended Return.

Authority: IC § 6-3-1-3.5; IC § 6-3-4-6.

Taxpayers protest the denial of their amended return.

STATEMENT OF FACTS

Taxpayers are a married couple that amended their federal and Indiana income tax returns for the year 2013. The Indiana Department of Revenue ("Department") in a letter denied Taxpayers' amended 2013 Indiana income tax return. Taxpayers filed a protest with the Department's Legal Division. A telephone hearing was held and this Memorandum of Decision results. Further facts will be supplied as required.

I. Adjusted Gross Income Tax—Amended Return.

DISCUSSION

The Department, in a letter dated February 10, 2017, denied Taxpayers' amended Indiana income tax return. The Department's letter stated that the Department had "reviewed your amended return of your 2013 tax year, but must deny it because no Federal Record of Account Transcripts was submitted." The letter stated that Taxpayers could provide additional documentation and it also stated that Taxpayers could file a protest. Taxpayers filed a protest.

Taxpayers' March 31, 2017, protest states in pertinent part that "the amended federal income tax return for tax year 2013 is still processing, and therefore an IRS account transcript for the year and period in question is not yet available"

IC § 6-3-1-3.5 defines individual "adjusted gross income" ("as defined in Section 62 of the Internal Revenue Code") and also states what modifications are to be made to adjusted gross income. IC § 6-3-4-6 deals with modifications made to a federal income tax return. That statute states:

- (a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which the taxpayer has filed with the United States Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.
- (b) Each taxpayer shall notify the department of any modification as provided in subsection (c) of:
 - (1) a federal income tax return filed by the taxpayer after January 1, 1978; or
 - (2) the taxpayer's federal income tax liability for a taxable year which begins after December 31, 1977.The taxpayer shall file the notice on the form prescribed by the department within one hundred twenty (120) days after the modification is made if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.
- (c) For purposes of subsection (b), a modification occurs on the date on which a:
 - (1) taxpayer files an amended federal income tax return;
 - (2) final determination is made concerning an assessment of deficiency;

- (3) final determination is made concerning a claim for a refund;
 - (4) taxpayer waives the restrictions on assessment and collection of all, or any part, of an underpayment of federal income tax by signing a federal Form 870, or any other Form prescribed by the Internal Revenue Service for that purpose. For purposes of this subdivision:
 - (A) a final determination does not occur with respect to any part of the underpayment that is not covered by the waiver; and
 - (B) if the signature of an authorized representative of the Internal Revenue Service is required to execute a waiver, the date of the final determination is the date of signing by the authorized representative of the Internal Revenue Service;
 - (5) taxpayer enters into a closing agreement with the Internal Revenue Service concerning the taxpayer's tax liability under Section 7121 of the Internal Revenue Code that is a final determination. The date the taxpayer enters into a closing agreement under this subdivision is the date the closing agreement is signed by an authorized representative of the Internal Revenue Service; or
 - (6) modification or alteration in an amount of tax is otherwise made that is a final determination; for a taxable year, regardless of whether a modification results in an underpayment or overpayment of tax.
- (d) For purposes of subsection (c)(2) through (c)(6), a final determination means an action or decision by a taxpayer, the Internal Revenue Service (including the Appeals Division), the United States Tax Court, or any other United States federal court concerning any disputed tax issue that:
- (1) is final and conclusive; and
 - (2) cannot be reopened or appealed by a taxpayer or the Internal Revenue Service as a matter of law.
- (e) If the federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within one hundred twenty (120) days after the modification is made if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.

As part of their protest, Taxpayers provided the Department's Legal Division with documentation. That documentation includes the requested IRS "Account Transcript." Since Taxpayers now have the documentation that was previously requested, Taxpayers' protest is sustained. The IRS information now shows Taxpayers' Adjusted Gross Income (AGI) as being the amount listed on Taxpayers' Indiana amended income tax return.

FINDING

Taxpayers' protest is sustained.

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