

**Letter of Findings: 01-20181759  
Indiana Adjusted Gross Income Tax  
For the Year 2015**

**NOTICE:** IC § 6-8.1-3-3.5 and IC § 4-22-7-7 requires 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual protested that the Department's adjustments to her 2015 income tax calculations were incorrect. In the course of the protest process Individual provided supporting documentation to verify her position. Therefore, Individual met the burden of proving the proposed assessment incorrect.

### ISSUE

#### **I. Adjusted Gross Income Tax—Income Subject to Tax.**

**Authority:** IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Indiana Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 N.E.2d 289 (Ind. Tax Ct. 2007); [45 IAC 3.1-1-1](#).

Taxpayer protests the imposition of Indiana income tax for the tax year 2015.

### STATEMENT OF FACTS

Taxpayer is an Indiana resident. After receiving information from the Internal Revenue Service ("IRS") that Taxpayer had reported a lower number of dependents for federal purposes than reported for State purposes for the tax year 2015, the Indiana Department of Revenue ("Department") determined that Taxpayer had a lower number of dependents for Indiana income tax purposes and so had additional Indiana income tax due. The Department therefore issued a proposed assessment for income tax, penalty, and interest. Taxpayer protested the proposed assessments. An administrative hearing was conducted via telephone and this Letter of Findings results. Further facts will be supplied as required.

#### **I. Adjusted Gross Income Tax—Income Subject to Tax.**

### DISCUSSION

Taxpayer protests the imposition of Indiana income tax for the year 2015. The Department based its assessment of income tax on information it received from the IRS stating that Taxpayer had reported fewer dependents to the federal government than she reported to Indiana. A lower number of dependents in Indiana would result in more Indiana adjusted gross income tax ("AGIT") due. The Department therefore determined that Taxpayer had additional Indiana income tax due. Taxpayer states that the discrepancy was due to confusion between her and her ex-husband regarding which one was to claim their child as a dependent on their tax returns for 2015. In the administrative hearing, Taxpayer explained that the confusion was eventually cleared up and that she was the proper parent to claim their child as a dependent for 2015.

As a threshold issue, it is the taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E. 2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of

[the] statute even over an equally reasonable interpretation by another party." *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

IC § 6-3-2-1(a) states:

(a) Each taxable year, a tax at the following rate of adjusted gross income is imposed upon 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:

- (1) For taxable years beginning before January 1, 2015, three and four-tenths percent (3.4[percent]).
- (2) For taxable years beginning after December 31, 2014, and before January 1, 2017, three and three-tenths percent (3.3[percent]).
- (3) For taxable years beginning after December 31, 2016, three and twenty-three hundredths percent (3.23[percent]).

*(Emphasis added).*

Next, the version of IC § 6-3-1-3.5 in effect during 2015 defined adjusted gross income in relevant part(s) as:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
- (4) Subtract one thousand dollars (\$1,000) for:
  - (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
  - (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
  - (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.
- (5) Subtract:
  - (A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and
  - (B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

....

*(Emphasis added).*

Section 151(c) of the Internal Revenue Code, found at 26 U.S.C. § 151(c) states:

(c) Additional exemption for dependents.--An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.

[45 IAC 3.1-1-1](#) further describes adjusted gross income:

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\(a\)](#).

Therefore, Indiana AGIT begins with federal AGIT and is followed by Indiana-specific adjustments, as provided by IC § 6-3-1-3.5(a). Specifically, IC § 6-3-1-3.5(a)(4) and 26 U.S.C. § 151(c) allow for a deduction for dependents.

In the instant case, Taxpayer was able to provide a copy of her amended 2015 federal income tax return and

updated federal account transcript for 2015 showing that she did list her child as a dependent for federal income tax purposes. Since Taxpayer listed her child as a dependent for Indiana AGIT purposes, as provided by IC § 6-3-1-3.5(a)(4), the two returns match the number of dependents listed and the number of dependents is accurate. With this additional documentation and analysis, Taxpayer has met the burden imposed under IC § 6-8.1-5-1(c) of proving the proposed assessment wrong.

### **FINDING**

Taxpayer's protest is sustained.

May 29, 2019

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