

Final Order Denying Refund: 01-20190895R
Indiana Individual Income Tax
For the Year 2017

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 of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

Individuals were not entitled to receive a refund of Indiana income tax because they were required to pay income tax on unemployment benefits attributable to an insurance plan provided through a railroad union compensation fund.

ISSUE

I. Individual Income Tax - Railroad Employee Benefits.

Authority: I.R.C. § 62; I.R.C. § 85; *INDOPCO, Inc. v. Comm'r.*, 503 U.S. 79 (1992); IC § 6-3-1-3.5(a); IC § 6-3-2-1(a); IC § 6-3-2-2(a); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Parker Pen Co. v. O'Day*, 234 F.2d 607 (7th Cir. 1956); *Indiana Department of Revenue, Indiana Tax Deduction Details*, <https://www.in.gov/dor/5863.htm>; *Indiana Tax Deduction Details*, <https://www.in.gov/dor/5863.htm#railroadunemployment>; IT-40 Full-Year Resident Individual Income Tax Booklet (2017); *Brotherhood's Relief and Compensation Fund*, <https://www.brcf.org/benefits-of-membership>.

Taxpayers argue that the Department erred in disallowing an Indiana individual income tax refund, and the Department should restore their deduction for railroad unemployment benefits.

STATEMENT OF FACTS

Taxpayers are a married couple who filed an amended joint 2017 Indiana income tax return (IT-40X). On that return, Taxpayers claimed a line four \$23,800 deduction. The amount represented unemployment benefits received from their "Brotherhood's Relief and Compensation Fund" and reported by the Brotherhood on Taxpayers' 1099-MISC ("Miscellaneous Income") form. The Indiana Department of Revenue ("Department") reviewed the amended return. The Department was unable to verify the "line four" deduction and - as a result - denied the Taxpayers' \$1,416 refund claim.

Taxpayers' disagreed with the Department's decision denying the refund and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayers' representative explained the basis for the protest. This Final Order Denying Refund results.

I. Individual Income Tax - Railroad Employee Benefits.

DISCUSSION

Taxpayers asserted that the Department erred in denying their refund because they are entitled to deduct a portion of income attributable to railroad unemployment benefits under Indiana law. Thus, the issue is whether Taxpayers have established that they are entitled to claim the \$23,800 deduction and receive the original refund amount.

As a principle matter, "an income tax deduction is a matter of legislative grace and that the burden of clearly showing the right to the claimed deduction is on the taxpayer." *INDOPCO, Inc. v. Comm'r.*, 503 U.S. 79, 84 (1992). "[S]tatutes creating deductions are to be strictly construed against the taxpayer." *Parker Pen Co. v. O'Day*, 234 F.2d 607, 609 (7th Cir. 1956).

Therefore, deductions, such as the "Railroad Unemployment and Sickness Benefits" deduction in this instance, are narrowly construed under Indiana law. When a taxpayer challenges taxability in a specific instance, that

taxpayer is required to provide documentation explaining and supporting its challenge. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an equally reasonable interpretation by another party." *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Indiana imposes a tax "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 . . ." IC § 6-3-2-1(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers file their federal income tax returns as required pursuant to the Internal Revenue Code.

In computing what is considered Taxpayers' Indiana income tax, IC § 6-3-1-3.5(a) refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) states that - with certain modifications specific to Indiana law - I.R.C. § 62 defines "adjusted gross income" for Indiana taxpayers. I.R.C. § 85 provides that:

(a) In the case of an individual, gross income includes unemployment compensation.

(b) For purposes of this section, the term "unemployment compensation" means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation.

The Department's website provides that "Benefits issued by the U.S. Railroad Retirement Board are not taxable by Indiana." *Indiana Tax Deduction Details*, <https://www.in.gov/dor/5863.htm> (last visited July 15, 2019). Elsewhere, the Department explains that "Indiana does not tax Social Security and railroad retirement benefits issued by the Railroad Retirement Board." *Indiana Department of Revenue: Indiana Tax Deduction Details*, <https://www.in.gov/dor/5863.htm#railroadunemployment> (last visited July 15, 2019). The 2017 Indiana income tax Instruction Book also reiterates that "Indiana does not tax Social Security income or the railroad retirement benefits that are issued by the U.S. Railroad Retirement Board." *Indiana Department of Revenue: IT-40 Full-Year Resident Individual Income Tax Booklet 21 (2017)*, available at www.in.gov/dor/files/sp265-2017.pdf (last visited July 15, 2019).

Taxpayer received income from the Brotherhood's Relief and Compensation Fund whose members are entitled to "income protection for members when 'Held Out of Service' due to suspension or discharge for an eligible occurrence." *Indiana Department of Revenue: Brotherhood's Relief and Compensation Fund*, available at <https://www.brcf.org/benefits-of-membership/> (last visited July 15, 2019). Those benefits are available to Brotherhood members who have applied to and paid for the Brotherhood's membership insurance plan. *Id.*

In this case, Taxpayers received "miscellaneous income" attributable to a railroad union unemployment compensation plan and taxable under both federal and Indiana law. The unemployment benefits are not treated the same as retirement benefits issued by the U.S. Railroad Retirement Board. Because Taxpayers were not entitled to deduct the income, the Department was correct in denying Taxpayers the requested refund.

FINDING

Taxpayers' protest is respectfully denied.

July 19, 2019

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