

**Letter of Findings: 02-20200383**  
**Indiana Corporate Income Tax**  
**For the Tax Year Ending April 30, 2019**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Out-of-state nonprofit organization provided sufficient documentation to show no taxable income in Indiana stemming from unrelated business activities.

### ISSUE

#### **I. Indiana Corporate Income Tax - Nonprofit Organization Unrelated Business Income.**

**Authority:** IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-3-2-3.1; IC § 6-8.1-5-1; *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*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer argues that the Department erred in assessing tax on unrelated business income from partnership interests.

### STATEMENT OF FACTS

Taxpayer is a nonprofit located outside of Indiana which invests in partnership interests. Taxpayer filed an IT-20NP return but failed to provide any apportionment information for its business income. The Indiana Department of Revenue ("Department") therefore issued a proposed assessment on the reported taxable income, as well as penalty and interest. Taxpayer disagreed with the assessment and submitted a protest, waiving its right to an administrative hearing. This Letter of Findings results from a review of documents submitted with the protest. Any additional facts will be provided as necessary.

#### **I. Indiana Corporate Income Tax - Nonprofit Organization Unrelated Business Income.**

### DISCUSSION

Taxpayer states that its partnership interests generate income that the partnerships directly allocate to each of the states. For the tax year at issue, Taxpayer claims that a loss was allocated to Indiana and therefore no tax was owed.

As a threshold issue, it is the Taxpayer's responsibility to establish that the corporate tax assessments are incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department'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*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

With that threshold burden in mind, 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, interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

IC § 6-3-2-1(b) imposes a tax on every corporation's "adjusted gross income derived from sources within Indiana." IC § 6-3-2-2 provides that a corporation has "adjusted gross income from sources within Indiana" when the corporation's Indiana apportionment factors result in deemed Indiana business income or nonbusiness income that is allocated to Indiana. IC § 6-3-1-3.5(b) defines adjusted gross corporate income "the same as 'taxable income' (as defined in Section 63 of the Internal Revenue Code)" with certain adjustments or modifications as required under Indiana law. IC § 6-3-2-3.1 explains that income "derived by [an] exempt organization from an unrelated trade or business" is taxable as adjusted gross income derived from Indiana sources.

Taxpayer provided an amended return along with its protest, which included attachments showing the allocation of income for each of its partnership investments. These documents demonstrated that the Taxpayer allocated a net loss to Indiana from its investments during the tax year. Upon review, these documents were sufficient to demonstrate that Taxpayer did not have taxable income allocated to Indiana during the tax year. Taxpayer therefore met its burden under IC § 6-8.1-5-1.

### FINDING

Taxpayer's protest is sustained.

October 15, 2021

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