

LETTER OF FINDINGS: 01-20221786
Individual Indiana Income Tax
For the Year 2021

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Having filed a joint 2021 federal income tax return, Indiana Residents were required to file a joint Indiana income tax return reporting and accounting for the income earned by both Residents and based on the amount of federal adjusted gross income reported on their federal return.

ISSUE

I. Indiana Individual Income Tax - Filing a Joint Indiana and Joint Federal Income Return.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-4-2; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayers challenge the Department's decision assessing an additional amount of Indiana income tax, interest, and penalty.

STATEMENT OF FACTS

Taxpayers timely filed a joint 2021 Indiana income tax return. The Indiana Department of Revenue ("Department") reviewed the return. As a result of that review, the Department determined that Taxpayers underpaid their 2021 Indiana adjusted gross income tax resulting an additional assessment of approximately \$1,600. In a letter dated June 22, 2023, the Department informed Taxpayers:

A review of your Indiana Individual Income tax for the tax period ending December 31, 2021, indicates you owe and additional [\$1,600]. This amount represents the full liability due including all assessed penalties to date. Details of this amount and the reasons for the assessment are listed below with additional information on page two of the notice.

The form indicates that Taxpayers made an error "in determining your county tax owed multiplying your Indiana adjusted gross income by your Indiana adjusted gross income by (county tax rate)."

On their original return, Taxpayers indicated that Husband owed approximately \$2000 in county income tax. In calculating the amount of county, Husband reported approximately \$187,000 in adjusted gross income. The Department adjusted that amount to approximately \$310,000. An account notation indicated that "this change was made to reflect the adjusted gross income from "IT-40 line 7."

As a result of correcting the adjusted gross income, the amount of county income tax was increased from the originally reported \$2,000 to approximately \$3,400.

Taxpayers disagreed with the assessment and submitted a protest to that effect. As requested in their protest, Taxpayers were granted a January 24 hearing. This Letter of Findings is based on Taxpayer's protest and the information available to the Department.

I. Indiana Individual Income Tax - Filing a Joint Indiana and Joint Federal Income Return.

DISCUSSION

The issue is whether Taxpayers have established that the Department's assessment of additional tax was wrong.

As with any assessment of Indiana listed taxes, it is Taxpayers' responsibility here to establish that the proposed assessments of tax, interest, and penalty were incorrect. As stated in IC § 6-8.1-5-1(c) and Indiana case law, "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid, including during an action appealed to the tax court under this chapter. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *See also 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).

Indiana imposes a tax "on 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(b). IC § 6-3-1-3.5(a) provides the starting point in determining the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying any particular additions and subtractions. The statute provides in small part that Indiana adjusted gross income starts with "'adjusted gross income' (as defined in Section 62 of the Internal Revenue Code) . . ."

The dispute stems from the Department's decision adjusting the amount of adjusted gross income used to calculate Taxpayers' county income tax liability. The Department notes that "all income is required to be reported as taxable for both state and county tax as filed on an IT-40 tax return. The CT-40 does not allow the customer to prorate the income already reported on line 7 of the return to calculate the appropriate county tax due."

Taxpayers explained their decision reporting their gross income as they did. "Upon reviewing the 2021 Indiana IT-40 and the Missouri MO-1040, we noticed that [Taxpayer Wife] was tagged as an Indiana resident. She was actually a Missouri resident, but we owned a property in Indiana, and she did not live or work in Indiana in the whole of 2021."

IC § 6-3-4-2(d) requires as follows.

Where a joint return is made by Husband and Wife pursuant to the Internal Revenue Code, a joint return shall be made pursuant to this article. Where a joint return is filed by a Husband and Wife hereunder, one spouse shall have no liability for the tax imposed by this article upon the income of the other spouse.

Indiana law requires Taxpayers to file a joint 2021 Indiana return. After reviewing the return, the Department's explanation, and after reviewing Indiana law, the Department find that Taxpayers have not established that the Department's proposed assessment was in anyway wrong, as required by IC § 6-8.1-5-1(c).

The Department here points out the principle that calculation of Indiana income tax - both state and county - starts with the amount of federal adjusted gross income. IC § 6-3-1-3.5(a) calls for Taxpayers to report adjusted gross income as defined in I.R.C. § 62. The tax form's directions are also specific calling for taxpayers to enter their "federal adjusted gross income from [their] federal income tax return." Although IC § 6-3-1-3.5 calls for or allows Indiana specific modifications - both additions and subtractions - but the starting point on the Indiana law is always adjusted gross income as reported on the federal return. Taxpayers' adjusted gross income for the year was approximately \$310,000 but the amount was "prorated" to a lesser amount in calculating the county income tax.

As near as can be determined, Taxpayers seem to agree at least in part. Federal adjusted income is carried over from the federal return to the Indiana return. In calculating their county income tax liability, Taxpayers were required by law to begin the county income calculation starting with their adjusted gross income as stated on the front page of the Indiana return and their corresponding federal return. In this case, Taxpayers failed to follow the instructions and Indiana law.

Taxpayers incorrectly determined that their federal adjusted gross income should be adjusted to reflect the fact that Taxpayer Wife lived in Missouri during all or part of 2021. Taxpayers explain that they are willing to amend the Missouri income tax return "but there would be no changes in our Missouri tax liability."

Of course, what the Taxpayers may do to change or adjust on their Missouri income is of no concern to the Department unless the Missouri change touches on or affects the Indiana return. The issue here - as understood - is the reporting information contained in their original Indiana return bearing in mind the straightforward principle that federal adjusted gross income is federal adjusted gross income; that number does not change from page to page. In this case, Taxpayers have not met the burden of proof under IC § 6-8.1-5-1(c) of establishing that the

FINDING

Taxpayers' protest is respectfully denied.

February 6, 2023

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