

Letter of Findings: 01-20221213
Individual Income Tax
for the Year 2020

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 Indiana Department of Revenue's (the "Department") 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 provided documentation reflecting adjustments to her federal adjusted gross income that were not correctly reflected by the Department. The Department will make necessary adjustments and issue an amended assessment.

ISSUE

I. Individual Income Tax - Assessment.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-8.1-5-1; *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); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); 26 USC § 62.

Taxpayer protests the Department's assessment of additional individual income tax.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. The Indiana Department of Revenue ("Department") determined that Taxpayer had more income in 2018 than reported on her Indiana income tax return. The Department therefore assessed additional individual income tax. Taxpayer protested the assessment. An administrative hearing was held. This Letter of Findings results. Additional facts will be provided as necessary.

I. Individual Income Tax - Assessment.

DISCUSSION

The Department determined Taxpayer owed additional income tax after receiving information that her adjusted gross income was underreported and reviewing her 2018 Indiana tax return.

In 2018, Taxpayer settled a discrimination lawsuit with her employer. Per the terms of the settlement agreement, the larger portion of the \$42,000 settlement was to be reported equally on a W-2 and Form 1099. The remainder, approximately \$17,000, was paid as attorney's fees.

Taxpayer filed her Indiana individual tax return in 2018. Taxpayer did not include any of the monies paid from the settlement in her Indiana adjusted gross income. After receiving information that Taxpayer's adjusted gross income was understated, the Department conducted a review of Taxpayer's account and issued an assessment for additional income tax.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. A proposed assessment is prima facie evidence the Department's claim for the unpaid tax is valid. IC § 6-8.1-5-1(c). The burden of proving the proposed assessment is wrong rests with the person against whom the proposed assessment is made. *Id.*; See e.g. *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). 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).

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) outlines what is income derived from Indiana sources and subject to Indiana income tax. There is a presumption that a taxpayer files his/her federal income tax return as required by the Internal Revenue Code. Thus, to effectively compute what is considered a taxpayer's Indiana income tax, Indiana law refers to the Internal Revenue Code. IC § 6-3-1-3.5 provides a starting point in determining a taxpayer's taxable income and calculating what would be his/her Indiana income tax after applying certain additions and subtractions, with any necessary modifications following. Modifications are outlined in IC § 6-3-1-3.5(a).

IC § 6-3-1-3.5 mandates certain income be added back to a taxpayer's adjusted gross income. Under IC § 6-3-1-3.5(a)(1), income that is exempt at the federal level is also exempt at the Indiana level unless specifically added back by an Indiana statute. Under 26 USC § 62(a)(20), a deduction is allowed for attorney's fees and court costs paid by, or on behalf of, a taxpayer in connection with any action involving a claim of unlawful discrimination (as defined by 26 USC § 62(e)). As explained above, that income is exempt at the federal level, and there is no Indiana add back for that income.

In support of her protest, Taxpayer provided a copy of her federal Record of Accounts for tax year 2018 along with documents from the settlement agreement and other correspondence showing adjustments to her 2018 income tax calculations.

When the Department received information that Taxpayer's federal adjusted gross income was changed, the Department reviewed the information along with Taxpayer's account. As a result, the Department recalculated Taxpayer's Indiana adjusted gross income to approximately \$81,000.

Taxpayer appealed the adjustment to her federal adjusted gross income. Taxpayer was eventually successful in that appeal and her federal adjusted gross income was reduced. A review of Taxpayer's current federal account transcript for 2018 shows an adjusted gross income of approximately \$64,000. This is significantly less than the amount currently shown in the Department's system.

In summary, Taxpayer filed her Indiana individual tax return for 2018 and incorrectly excluded the monies gained through the settlement agreement with her employer. However, approximately \$17,000 of the settlement amount was deductible at the federal level. Thus, the same amount was deductible at the state level under IC § 6-3-1-3.5(a)(1) and 26 USC § 62(a)(20). The Department will review Taxpayer's federal Record of Accounts for 2018 that was submitted as part of this protest and adjust Taxpayer's account accordingly. Once the review is completed and the information is input correctly into the Department's system, Taxpayer's account will be current for tax year 2018. At that point, the Department, if necessary, will issue an updated assessment.

FINDING

Taxpayer's protest is sustained in part and denied in part. The Department will correct its records to reflect Taxpayer's updated 2018 adjusted gross income, and if necessary, issue a corrected assessment.

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