

**Memorandum of Decision: 01-20221295
Individual Adjusted Gross Income Tax
For the Year 2019**

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 Memorandum of Decision.

HOLDING

Individual provided documentation demonstrating that her amended tax return correctly calculated her Indiana taxable income based on casual gambling winnings.

ISSUE

I. Indiana Adjusted Gross Income Tax - Recreational Gambler Documentation.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); [45 IAC 3.1-1-2](#); I.R.C. § 61; I.R.C. § 63; I.R.C. § 165.

Taxpayer protests the Department's refund denial for the 2019 tax year.

STATEMENT OF FACTS

Taxpayer is an out-of-state individual who earned income gambling in Indiana in 2019. Taxpayer timely filed her 2019 Indiana income tax return but calculated her gambling losses incorrectly. She subsequently filed an amended return for 2019, requesting a refund. The Indiana Department of Revenue ("Department") denied her refund request, stating that it did not receive a copy of Taxpayer's Form 1040X and needed a copy of the federal Schedule C showing Taxpayer's professional gambler status. Taxpayer protested the refund denial, and a telephonic hearing was held. This Memorandum of Decision results.

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DISCUSSION

Taxpayer argues that she is not a professional gambler, and that the IRS has reviewed her gambling calculations to confirm the correct amount of adjusted gross income. As a threshold issue, "when [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 are entitled to deference.

In general, the Internal Revenue Code ("IRC") requires a taxpayer to report and pay his or her federal income tax when gross income exceeds a certain amount. Gross income includes all income from whatever source derived. I.R.C. § 61(a). Thus, income from gambling winnings is considered income subject to federal income tax. Nonetheless, a taxpayer who has income from casual gambling (as opposed to professional gambling) is allowed to deduct gambling losses when claiming an itemized deduction on his or her federal individual income tax return. I.R.C. § 63(e). These losses may only be deducted to the extent of the gains from such transactions. I.R.C. § 165(d).

IC § 6-3-1-3.5(a) provides that adjusted gross income for determining Indiana income tax liability begins with the IRC's definition of adjusted gross income, with several subsequent modifications. Thus, the deduction of casual gambling losses from gains, contemplated by I.R.C. § 165(d), is "carried through" into Indiana's calculation of adjusted gross income. IC § 6-3-2-1(a) and IC § 6-3-2-2(a) go on to explain that income derived from Indiana sources is subject to Indiana tax. This means a casual gambler who is not an Indiana resident is still required to pay Indiana income tax on income derived from Indiana gambling activities. [45 IAC 3.1-1-2](#).

The Department's records show that Taxpayer's originally filed return incorrectly listed all gambling income as

taxable in Indiana. In fact, only a portion of Taxpayer's gambling income was derived from Indiana sources. Moreover, as discussed above, Taxpayer is entitled to reduce her gambling winnings by gambling losses when determining her adjusted gross income. Taxpayer provided documentation, including IRS Form 4549 and IRS Form 886A, which show that the IRS reviewed Taxpayer's calculation of gambling income as it pertains to federal adjusted gross income. The amount of gambling income, as determined by the IRS, which can be sourced to Indiana is identical to the amount claimed by Taxpayer on her amended Indiana return. Because the IRS has reviewed and confirmed Taxpayer's calculation of adjusted gross income, Taxpayer has demonstrated that she is entitled to the entire requested refund.

FINDING

Taxpayer's protest is sustained.

March 13, 2023

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