

**Letter of Findings: 01-20221327
Individual Indiana Income Tax
For the Year 2018**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual has met the burden of proving that the assessment of individual income tax was incorrect.

ISSUE

I. Indiana Individual Income Tax - Federal Discrepancy.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014); *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); [45 IAC 15-5-1](#); [45 IAC 15-11-2](#).

Taxpayer argued that the assessment of additional 2018 income tax was incorrect.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. After Taxpayer filed her federal tax return for tax year 2018, an adjustment was made to Taxpayer's federal return due to unreported income. The adjustment prompted a review of her Indiana tax return. The Indiana Department of Revenue's ("Department") review resulted in a proposed assessment of additional 2018 Indiana income tax.

Taxpayer disagreed with the assessment and submitted a protest, requesting resolution without a hearing. This Letter of Findings results. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Federal Discrepancy.

DISCUSSION

Taxpayer divorced in 2018 and her marital home was sold for a loss. Taxpayer filed the loss on her federal 2018 return. An adjustment was then made citing unreported income. The federal adjustment prompted a review from the Department which led to a proposed assessment of additional Indiana income tax.

Taxpayer stated that she contested the federal assessment with the U.S. Federal Tax Court. In the course of the protest process, Taxpayer provided the court order that vacated the adjustment to her 2018 federal return. Additionally, Taxpayer provided a copy of her federal record of account. The transcript showed that Taxpayer's federal return for tax year 2018 was re-adjusted to the originally reported income.

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 that the Department's claim for the unpaid tax is valid. IC § 6-8.1-5-1(c). The burden of proving that 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) and *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, 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, all interpretations of Indiana tax law contained within this

decision shall be entitled to deference.

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 calculate what would be their Indiana income tax after applying any particular additions and subtractions. The statute provides in part that Indiana adjusted gross income starts with "'adjusted gross income' (as defined in Section 62 of the Internal Revenue Code) . . ." *Id.*

In the course of the protest process, Taxpayer provided sufficient documentation to show that the assessment was incorrect. The Department was unaware of the court's decision to reverse the federal adjustment when it issued the assessment. Taxpayer has now provided sufficient documentation to show that the federal adjustment was readjusted and, thus, the Indiana adjustment was unnecessary. Taxpayer has met the burden of proving the proposed assessment incorrect, as required by IC § 6-8.1-5-1(c).

FINDING

Taxpayer's protest is sustained.

March 6, 2023

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