

**Letter of Findings: 01-20221297**  
**Indiana Individual Income Tax**  
**For the Tax 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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**

The Department disagreed with Indiana Resident that he was not required to report income earned in Arizona and in New Jersey. The out-of-state income should have been reported as part of his federal adjusted gross income although he was entitled to claim a credit for any income tax paid New Jersey.

**ISSUE**

**I. Indiana Individual Income Tax - Credit for Income Tax Paid to Arizona and New Jersey.**

**Authority:** IC § 6-3-1-3.5; IC § 6-3-2-1; 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); Income Tax Information Bulletin 28 (February 2022); Income Tax Information Bulletin 28 (November 2016).

Taxpayer argues that the Department's assessment of additional income tax was wrong because he reported and paid income on a portion of his income to both Arizona and New Jersey.

**STATEMENT OF FACTS**

Taxpayer and his wife are Indiana residents who filed a 2018 individual Indiana income tax return. The Indiana Department of Revenue ("Department") reviewed the return and determined that Taxpayer owed additional Indiana income tax. In a letter dated December 2021, the Department explained as follows:

A review of your Indiana Individual Income tax for the period ending December 31, 2018, indicates you owe an additional [ ≈ \$5,100]. This amount represents the full liability due including all penalties and interest to date.

Taxpayer disagreed with the assessment and submitted a protest to that effect. An administrative hearing was conducted by telephone during which Taxpayer explained the basis for the protest. This Letter of Findings results.

**I. Indiana Individual Income Tax - Credit for Income Tax Paid to Arizona and New Jersey.**

**DISCUSSION**

The issue is whether Taxpayer has established that the Department's assessment is wrong because he and his wife filed income tax returns in Arizona and New Jersey reporting - and paying tax - on portions of their 2018 income.

Taxpayer filed a 2018 federal income tax return. On that return, he reported approximately \$165,000 in adjusted gross income.

Taxpayer filed a 2018 Indiana income tax return. That return required Taxpayer to enter the "federal adjusted income from [his] federal income return." Taxpayer did not do so; instead he entered approximately \$85,000.

Taxpayer filed a 2018 Arizona income tax return. On that return, Taxpayer reported approximately \$81,000 in "Arizona gross income." Taxpayer paid approximately \$1,900 in Arizona income tax.

Taxpayer filed a 2018 New Jersey income tax return. On that return, Taxpayer reported approximately \$81,000 of New Jersey "taxable income." Taxpayer paid approximately \$50 in New Jersey income tax.

In addressing Taxpayer's protest and as a threshold issue, it is the taxpayer's responsibility to establish that the income tax assessment is 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 Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't 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 Department's Income Tax Information Bulletin 28 (November 2016), 20161228 Ind. Reg. 045160560NRA; See also Income Tax Information Bulletin 28 (February 2022), 20220223 Ind. Reg. 045220044NRA, explains as follows. For purposes of the tax paid **New Jersey**, the Bulletin provides:

When a person receives income from any state, possession, or foreign country . . . the taxpayer might be required to pay income taxes to both jurisdictions. The taxpayer may take a credit for taxes paid to other states against the taxpayer's Indiana adjusted gross income tax liability.

. . . .

The credit is equal to the least of the following:

- The amount of income tax actually paid to the other state, possession, or foreign country on income from that jurisdiction;
- An amount equal to the Indiana income tax rate multiplied by the adjusted gross income taxed by both Indiana and the jurisdiction; or;
- The amount of Indiana adjusted gross income tax due to Indiana for the tax year.

For purposes of income taxes paid to **Arizona**, the Bulletin explains as follows.

The reverse credit agreement applies to Indiana residents who have income from the following jurisdictions and to residents of those jurisdictions who have income from Indiana. Included are **Arizona**, Oregon, and Washington, D.C. Effective for tax years 2017 and later . . . .

For example, a resident of Indiana with rental income from property owned in a reverse credit state will file a resident Indiana return and include the rental income on the Indiana return. The taxpayer will file a nonresident return for the state where the income was earned and claim a credit for the taxes paid to Indiana on the rental income.

Indiana law requires that its residents pay tax based on their federal adjusted gross income which - in Taxpayer's case - is \$165,000 not the \$85,000 amount originally reported. As the Information Bulletin provides:

Full-year Indiana residents must report all income that is reported for federal income tax purposes on their Indiana individual income tax return (Form IT-40). This includes all income, even if it is derived from sources outside Indiana.

In Taxpayer's case, the law allows him to claim a credit for taxes paid New Jersey but not Arizona. He would normally do so by completing a Schedule 6, "Offset Credits."

The Department will adjust Taxpayer's return to reflect the permissible credit. However, as to substance of Taxpayer's protest, the Department must otherwise respectfully decline to agree.

## FINDING

To the extent set out in this Letter of Findings, Taxpayer's protest is denied.

November 23, 2022

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