

**Letter of Findings: 01-20221166
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Out-of-State Individual met her burden of establishing that the Department's assessment of additional 2018 Indiana income tax was wrong because the federal transcript established that the Department's assessment was based on the incorrect amount of federal adjusted gross income.

ISSUE

I. Indiana Individual Income Tax - Addressing a 2018 Federal Discrepancy.

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); *IRS, Newsroom, Deductions; Tuition and Fees*, <https://www.irs.gov/newsroom/tax-benefits-for-education-information-center>.

Taxpayer argues that the Department's assessment of additional 2018 income tax was wrong because she correctly reported her Indiana adjusted gross income.

STATEMENT OF FACTS

Taxpayer is an out-of-state resident who routinely files Indiana income tax returns reporting Indiana source income. Taxpayer filed a 2018 Indiana income tax return and 2018 federal income tax return. On both the original federal and Indiana returns, Taxpayer reported approximately \$23,000 in adjusted gross income.

Subsequently, Taxpayer filed an amended 2018 federal return in order to claim a "Tuition and Fees Deduction" as reported on her federal Form 8917. The amended 2018 federal return reported approximately \$19,000 in federal adjusted gross income.

Thereafter, Taxpayer filed an amended 2018 Indiana income tax return to reflect the adjustment made on her 2018 federal return. The Indiana return reported the same amount of adjusted gross income (approximately \$19,000) as reported on the amended federal return.

In a letter dated December 14, 2021, the Indiana Department of Revenue ("Department") notified Taxpayer that she owed an additional amount of approximately \$170 in 2018 Indiana income tax.

In the December 2021 letter, the Department explained:

A review of your Indiana Individual Income tax for the period ending December 31, indicates you owe an additional [\$170]. This amount represents the full liability due including all assessed penalties and interest to date.

. . . .

[Y]our reported federal adjusted gross income [] is understated based on information from external third-party sources. These sources include information received from the Internal Revenue Service (IRS), employer wage information, or other income reported to DOR by the payer.

Taxpayer disagreed with the assessment and submitted a protest to that effect. An administrative hearing was

conducted during which Taxpayer explained the basis for her protest. This Letter of Findings results.

I. Indiana Individual Income Tax - Addressing a 2018 Federal Discrepancy.

DISCUSSION

Taxpayer maintains that the assessment is wrong and that the Department has not properly accounted for the adjustment made to her Indiana return. As explained by Taxpayer, "The [amended returns] were filed due to the extension of the Tuition and Fees Deduction that covered 2018." Taxpayer further explained:

My understanding is that the IRS has sent federal tax return data to the states with 2018 Adjusted Gross Income numbers that do not reflect amended returns. Therefore, when the IN DOR compares this data to the amended state returns, a difference is detected, and an automatic notice generated.

The issue is whether Taxpayer has met her burden of establishing that her adjusted gross income was correct as reported on both her amended federal and Indiana 2018 returns and that the Department erred in assessing her additional Indiana income tax.

As with any assessment of Indiana listed taxes, it is Taxpayer's responsibility here to establish that the proposed assessments of tax, interest, and penalty are 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) . . ."

Taxpayer amended her federal and Indiana returns to take advantage of the Tuition and Fees Deduction for "qualified expenses." Taxpayer's federal return included the Form 8917 reporting those expenses; as a result, Taxpayer's federal adjusted gross income was reduced from approximately \$23,000 to approximately \$19,000. *See IRS, Newsroom, Deductions; Tuition and Fees*, <https://www.irs.gov/newsroom/tax-benefits-for-education-information-center>, (Last visited December 11, 2022) ("If you already filed your return for a prior year and now want to claim the deduction for that year, you can do so by filing an amended return on Form 1040-X, Amended U.S. Individual Income Tax Return.")

The amended Indiana return reported the reduction from \$23,000 to approximately \$19,000. However, the Department's records do not reflect the results of the amended Indiana return; those records continue to reflect the original \$23,000 amount.

An updated federal transcript (dated December 9, 2022) confirms Taxpayer's accounting and verifies the results of Taxpayer's amended federal returns. For both Indiana and federal purposes, Taxpayer's 2018 adjusted gross income was approximately \$19,000.

In assessing the additional tax, the Department was apparently comparing apples and oranges. The Department based the assessment on Taxpayer's originally reported federal adjusted gross income and failed to account for either Taxpayer's amended Indiana return or the corrected federal transcript.

The Department agrees that the additional assessment was unwarranted. Based on the information provided by Taxpayer and the information available to it, the Department concludes that Taxpayer met her statutorily imposed burden under [IC 6-8.1-5-1\(c\)](#) of establishing that the additional assessment was wrong.

FINDING

Taxpayer's protest is sustained.

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