

**Letter of Findings: 01-20221566
Individual Indiana Income Tax
For the Year 2019**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 did not make a mistake by assessing Individuals additional 2019 income tax; comparing the amount of state tax withholding reported on the return to the W-2 and 1099 information revealed a discrepancy which the Department was required by law to correct and to issue an assessment correcting the amount of withholding tax claimed on the original return.

ISSUE

I. Indiana Individual Income Tax - Addressing a Discrepancy Reported on an Indiana Tax Return.

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); [45 IAC 15-5-1](#).

Taxpayers argue that the Department's assessment of additional 2019 income tax was wrong because husband and his wife correctly reported their Indiana adjusted gross income.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who, together with his wife (hereinafter "Taxpayers"), filed a joint 2019 Indiana income tax return. The Indiana Department of Revenue ("Department") reviewed the return. The Department's review resulted in an assessment of additional 2019 Indiana income tax. The assessment was issued because the Department determined that there was an error in the original tax calculations and that the error required a correction.

In a letter dated March 14, 2022, the Department explained:

A review of your [2019] Indiana Individual Income tax for the period ending December 31, indicates you owe an additional [approximately \$2,500]. This amount represents the full liability due including all assessed penalties and interest to date.

. . . .

[Y]our reported federal adjusted gross income [] is under stated 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.

Taxpayers disagreed with the assessment and submitted a protest to that effect. In the protest letter, Taxpayers asked for and were granted the opportunity to discuss the protest during a telephone conference. This Letter of Findings has been based upon a review of the documentation provided by Taxpayers and information available in the Department's own records.

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DISCUSSION

Taxpayers believe the assessment is wrong and that the Department has not provided a sufficient explanation

explaining the basis for the adjustment.

The issue is whether Taxpayers have met their burden of establishing that their adjusted gross income was correct as originally reported and that the Department erred in assessing Taxpayers additional Indiana tax.

As noted, Taxpayers filed a "married filing jointly" Indiana 2019 return. On that return, Taxpayers reported approximately \$200,000 in adjusted gross income and an approximately \$2,600 tax liability. On Taxpayers' schedule five, Taxpayers claimed approximately \$7,000 in offsetting credits representing state tax withheld on their behalf during 2019.

The Department's adjustment at issue stems from the Department's conclusion that the \$7,000 amount was wrong; the Department's calculation was that Taxpayers' documentation established that Taxpayers were entitled to claim an amount of "state tax withheld" of approximately \$4,700.

As with any assessment of Indiana listed taxes, it is Taxpayers' 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. 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 each 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) . . ." In this case, one of the "particular additions and corrections" is to account for the amount of tax withheld on behalf of each individual taxpayer.

A review of Taxpayers' supporting documents establish that approximately \$4,700 in state taxes was withheld on the Taxpayers' behalf during 2019.

The Department correctly based its assessment on the best information available to it. The Department was required to issue the assessment under [IC 6-8.1-5-1\(b\)](#) which provides that "If the department reasonably believes that a person has not reported the proper amount of tax due, the department *shall make* a proposed assessment of the amount of the unpaid tax on the basis of the best information available." (*Emphasis added*) See also [45 IAC 15-5-1](#).

The Department takes this opportunity to address a statement contained in the March 14 letter. That letter explains that Taxpayers' federal adjusted gross income was wrong or, as the letter explains, was "understated." That is not the case; the Department did not adjust the amount federal adjusted gross income but did correct a calculation underlying the assessment itself.

The Department does not agree that the additional assessment was unwarranted. Based on the information provided by Taxpayers and the information available to it, the Department concludes that Taxpayers have failed to meet their statutorily imposed burden under [IC 6-8.1-5-1\(c\)](#) of establishing that the assessment was wrong. The supporting documentation, supplied by Taxpayers in the course of the protest process, does not support the calculation contained within the originally filed 2019 Indiana return and the Department was required by law to assess additional tax based on the best information available to it.

FINDING

Taxpayers' protest is respectfully denied.

December 21, 2022

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