

**Memorandum of Decision: 75-20221541
For Tax Year 2020**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

HOLDING

Fiduciary provided sufficient information showing that it was not an Indiana based trust and lacked taxable Indiana income.

ISSUE**I. Fiduciary Tax - Imposition.**

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).

Taxpayer protests the imposition of additional tax.

STATEMENT OF FACTS

Taxpayer is a Minnesota based trust. Taxpayer filed an income tax return for tax year 2020. The return reported no taxable Indiana income and requested a refund of estimated taxes paid during the year. After review of the return, the Indiana Department of Revenue ("Department") determined there were "inconsistencies" with the return. As a result of the "inconsistencies," the Department determined Taxpayer was an Indiana based trust and adjusted the amount of income taxable in Indiana. Adjustments made by the Department showed Taxpayer was still owed a refund albeit in a significantly reduced amount. Taxpayer protested the Department's actions and requested resolution without a hearing. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Fiduciary Tax - Imposition.**DISCUSSION**

After reviewing Taxpayer's return for tax year 2020, the Department determined Taxpayer was an Indiana based trust with taxable Indiana income.

As a threshold issue, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. "[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 of another party.'" *Dept. of State Revenue v Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Indiana imposes a tax "upon 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](#). [IC 6-3-2-2\(a\)](#) outlines what is income derived from Indiana sources and subject to Indiana income tax. There is a presumption that a taxpayer files his/her federal income tax return as required by the Internal Revenue Code. Thus, to effectively compute what is considered a taxpayer's Indiana income tax, Indiana law refers to the Internal Revenue Code. [IC 6-3-1-3.5\(f\)](#) provides a starting point in determining what is "taxable income" for trusts. Modifications are also detailed in [IC 6-3-1-3.5\(f\)](#).

Taxpayer filed an income tax return for tax year 2020. On the return, Taxpayer calculated its federal adjusted gross income, followed by its Indiana taxable income, which was negative \$5,551. Because of the negative calculation of Indiana taxable income, Taxpayer also requested a refund of estimated taxes paid during the tax

year.

The Department determined that Taxpayer's federal adjusted gross income was entirely taxable in Indiana even though the originally filed return showed a negative balance for Indiana income. Department correspondence sent to Taxpayer stated that non-Indiana fiduciary income was adjusted due to a calculation error resulting in changes to Taxpayer's Indiana taxable income and Indiana adjusted gross income. The adjustments resulted different amounts of total tax due and refund owed than originally calculated by Taxpayer.

During the protest, Taxpayer explained that the trust was created in Minnesota, all recordkeeping and administration of the trust was conducted in Minnesota, and the grantor was always (and still is) a Minnesota resident. Taxpayer also explained the trust's only investment is one limited liability company ("LLC"). Taxpayer provided documentation showing the LLC did not have any Indiana sourced income for tax year 2020.

Taxpayer is correct. A review of the documentation provided shows Taxpayer is a Minnesota based trust and had no Indiana based income for tax year 2020, as explained by [IC 6-3-2-1](#). The refund requested by Taxpayer on the originally filed 2020 return should have been released to Taxpayer when the return was filed.

FINDING

Taxpayer's protest is sustained.

January 23, 2023

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