

Letter of Findings: 01-20231120
Individual Indiana Income Tax
For the 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 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 agree that Individuals correctly calculated their 2020 Indiana income tax liability; Individuals incorrectly accounted for their 2020 unemployment benefits on Indiana's "Unemployment Compensation Worksheet."

ISSUE

I. Indiana Individual Income Tax - Unemployment Benefits.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-8.1-5-1](#); I.R.C. § 85; *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); Unemployment Compensation Worksheet (September 2020); Income Tax Information Bulletin 60 (July 2021).

Taxpayers argue that the Department erred in assessing them additional 2020 income tax because Taxpayers were entitled to exclude unemployment compensation from their Indiana adjusted gross income tax.

STATEMENT OF FACTS

Taxpayers are Indiana residents who routinely file for and pay Indiana's adjusted gross income tax. Taxpayers filed their 2020 Indiana return. The Department reviewed that return. The review resulted in a decision adding back certain unemployment income which Taxpayers originally excluded on the return.

The "add-back" of the unemployment benefits resulted in an assessment of additional Indiana income tax. Taxpayers disagreed with the Department's assessment and submitted a protest to that effect. An administrative hearing was conducted by phone during which Taxpayers explained the basis for their protest.

I. Indiana Individual Income Tax - Unemployment Benefits.

DISCUSSION

The issue is whether Taxpayers have met their burden of establishing that they were entitled to deduct \$18,000 in unemployment benefits in calculating their 2020 Indiana adjusted gross income.

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 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 small part that Indiana adjusted gross income starts with "'adjusted gross income' (as defined in Section 62 of the Internal Revenue

As explained in Indiana Income Tax Information Bulletin 60 (July 2021) 20210728 Ind. Reg. 045210278NRA:

Generally, unemployment compensation benefits are taxable at the federal level. However, for the 2020 taxable year, the American Rescue Plan Act of 2021 enacted a retroactive change under IRC § 85(c), allowing an exclusion of unemployment compensation of up to \$10,200 per individual, provided that the taxpayer (single or married) had a federal adjusted gross income of less than \$150,000 prior to inclusion of unemployment compensation.

In response, the Indiana legislature enacted [IC 6-3-1-3.5\(a\)\(33\)](#). That provision provides:

For taxable years beginning after December 31, 2019, and before January 1, 2021, add an amount equal to the amount of unemployment compensation excluded from federal gross income under Section 85(c) of the Internal Revenue Code.

The Indiana statute refers to I.R.C. § 85(c) (effective March 11, 2021). The federal provision states:

Special rule for 2020

(1) In general

In the case of any taxable year beginning in 2020, if the adjusted gross income of the taxpayer for such taxable year is less than \$150,000, the gross income of such taxpayer *shall not include so much of the unemployment compensation received by such taxpayer* (or, in the case of a joint return, received by each spouse) as does not exceed \$10,200. (*Emphasis added*).

I.R.C. § 85(c) allowed federal taxpayers a limited exclusion for certain amounts of 2020 unemployment benefits. That exclusion was effective March of 2021. Generally, Indiana's income tax starts with the federal calculation. However, in this case the Indiana General Assembly decided to "disconnect" from this federal exclusion by promulgating [IC 6-3-1-3.5\(a\)\(33\)](#).

The result? For the year 2020 federal taxpayers were entitled to exclude certain unemployment benefits but - for Indiana purposes - Indiana taxpayers were required to add those amounts back. Taxpayers did not pay federal tax on the benefits, but as Indiana residents, Taxpayers were required to pay Indiana income tax on those same amounts pursuant to [IC 6-3-1-3.5\(a\)\(33\)](#).

In an attempt to assist Indiana taxpayers in making this change, the Department issued a 2020 Unemployment Compensation Worksheet (September 2020) found at <https://www.in.gov/dor/tax-forms/2020-individual-income-tax-forms> (last visited March 2023).

As instructed in the Department's worksheet, Taxpayers put \$18,000 on the worksheet's line 7 and then carried "this amount to Schedule 2, line 10." However, Taxpayers made a series of errors on the remainder of the worksheet. For instance, Taxpayers put approximately \$16,000 on line 1 of the worksheet. The \$16,000 entry was incorrect because Taxpayers should have entered approximately \$26,000 on that line.

Correctly calculated, the line 11 deduction amount is \$0. That was the amount that should have been carried over to Taxpayers' Indiana Schedule 2, line 10 (Deductions).

Given the competing federal and Indiana treatment of unemployment benefits and the haste in which the legislative decisions were implemented, Taxpayers' calculation error is perfectly understandable. Nonetheless, the Department is unable to agree that Taxpayers have met their burden under [IC 6-8.1-5-1\(c\)](#) of establishing that that the assessment was wrong.

Bearing in mind each Indiana taxpayer's confidentiality rights, the Department will not detail the adjustments and corrections made to the worksheet. However, the Department will include a fully corrected worksheet as an attachment to this decision.

HOLDING

Taxpayers' protest is respectfully denied.

April 3, 2023

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An [html](#) version of this document.