

**Letter of Findings: 01-20231400  
Indiana Individual Income Tax  
For The Tax 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individuals failed to meet the burden of proving that the proposed assessment was overstated. Based on the federal Record of Account provided, Individuals were responsible for additional Indiana income tax for the tax year in question.

### ISSUE

#### **I. Indiana Individual Income Tax - Burden of Proof.**

**Authority:** [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3-3-12](#); [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); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010). Taxpayers protest the Department's assessment of individual income tax for 2019.

### STATEMENT OF FACTS

Taxpayers (Husband and Wife) are Indiana residents, who filed married-filing-jointly federal and Indiana income tax returns for 2019. In addition to income from IRA distributions and pensions, Taxpayers reported wage income and interest income on their federal joint return, Form 1040. Taxpayers reported an approximately \$216,000 federal adjusted gross income, which in turn was reported on Line 1 of their Indiana income tax return, Form IT-40. An approximately \$540 overpayment was subsequently refunded to Taxpayers in 2020.

In 2022, the Indiana Department of Revenue ("Department") reviewed and determined that, for the 2019 tax year, Taxpayers had an additional approximately \$29,300 in federal adjusted gross income, which was not reported on their original 2019 Indiana income tax return. As a result, the Department assessed Taxpayers additional income tax, interest, and penalty. The assessment also included bill-back of the erroneous refund, approximately \$540.

Taxpayers protested the assessment and requested that the Department make the final decision based on the additional documents submitted. This Letter of Findings ensues. Additional facts will be provided as necessary.

#### **I. Indiana Individual Income Tax - Burden of Proof.**

### DISCUSSION

The Department determined that Taxpayers had an additional approximately \$29,300 in federal adjusted gross income, which was not reported on their original 2019 return. As a result, the Department assessed Taxpayers additional income tax, interest, and penalty.

Taxpayers disagreed, stating, in part, the following:

Our simple position is that our Federal Adjusted Gross Income (FAGI) was correct on our 2019 return and in your notice the Indiana Department of Revenue (IN DOR) failed to credit us our \$1,000 tax credit for 529 contributions made to our daughter (\$3,000), our grandson (\$1,000) and our granddaughter (\$1,000). Therefore, we do not owe any additional tax or penalty. . . .

The issue is whether Taxpayers demonstrated that they were not responsible for additional Indiana income tax.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. [IC 6-8.1-5-1\(c\)](#); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). As such, the taxpayer is required to provide documentation explaining and supporting his challenge that the assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010).

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\(a\)](#). To compute what is considered the resident/taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. [IC 6-3-1-3.5\(a\)](#) provides the starting point to determine the taxpayer's taxable income and to calculate what would be his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this instance, first, the Department reviewed and determined that Taxpayers underreported their federal adjusted gross income by approximately \$29,300 on their original 2019 Indiana income tax return. Taxpayers disagreed and provided a copy of their 2019 federal Record of Account issued by the Internal Revenue Service ("IRS") to support their protest. Taxpayers highlighted their "taxable income" stated on the first page of the IRS Record of Account, maintaining that approximately \$216,000 was correctly reported on their Indiana tax return.

Upon review, however, Taxpayers are mistaken. As mentioned earlier, [IC 6-3-1-3.5\(a\)](#), which references federal adjusted gross income, provides the starting point to determine Taxpayers' taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter. Thus, for Indiana income tax reporting purposes, that starting point was Taxpayers' federal "adjusted gross income," not their federal "taxable income."

Taxpayers highlighted their federal "taxable income" but neglected to explain that, in 2021, the IRS increased their federal "adjusted gross income" to approximately \$246,000. The IRS Record of Account provided by Taxpayers speaks for itself. If there is any error made by the IRS, Taxpayers' recourse is with the IRS. If the IRS does make an adjustment to Taxpayers' return after the issuance of this final determination, Taxpayers will have the opportunity to report that adjustment to the Department - subject to the applicable statutes of limitations.

As to Taxpayers' second argument, a further review of the Department's record showed that, in 2020, Taxpayers claimed, and were granted, the \$1,000 tax credit pursuant to [IC 6-3-3-12](#). The allowance or disallowance of this tax credit, therefore, is irrelevant to the assessment and beyond the scope of this protest.

To conclude, based on Taxpayers' supporting documents, Taxpayers failed to meet their burden of proof demonstrating that the Department's assessment was wrong, as required by [IC 6-8.1-5-1\(c\)](#). To compute Taxpayers' Indiana income tax, Taxpayers' federal "adjusted gross income" - not "taxable income" - is the starting point. Since that is the statutorily mandated procedure, the IRS Account Record of Account speaks for itself. Taxpayers' recourse is with IRS if there is any error made by IRS. Naturally, if the IRS does make an adjustment to Taxpayers' 2019 tax return subsequently after the issuance of this decision, Taxpayers will also have the opportunity to report that adjustment to the Department subject to the applicable statutes of limitations.

## FINDING

Taxpayers' protest is respectfully denied.

May 19, 2023

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