

Supplemental Letter of Findings: 01-20221272
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual has not met the burden of proving that the Department's assessment was incorrect.

ISSUE

I. Indiana Individual Income Tax - Federal Discrepancy.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-8.1-5-1](#); *Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *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](#).

Taxpayer argued that the Department's assessment of additional 2018 income tax was incorrect.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. Taxpayer underreported his federal adjusted gross income by approximately \$24,000. An adjustment was made to Taxpayer's federal return, which prompted a review of his Indiana tax return. The Indiana Department of Revenue's ("Department") review resulted in a proposed assessment of additional 2018 Indiana income tax.

Taxpayer disagreed with the assessment and submitted a protest to that effect. Taxpayer requested a decision with an administrative hearing. Taxpayer did not attend the administrative hearing and the protest was administratively closed. Taxpayer requested and was granted a rehearing. A rehearing was held. This Supplemental Letter of Findings results. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Federal Discrepancy.

DISCUSSION

Taxpayer states that he moved to Indiana from Missouri, but his employer never updated his information, and state and local Missouri taxes continued to be withheld from his paychecks. Taxpayer received an assessment from Indiana for unpaid state and local tax, which Taxpayer paid. Taxpayer was refunded the erroneously withheld taxes from Missouri. Taxpayer then received another assessment from Indiana stating that there was a federal discrepancy of approximately \$24,000. Taxpayer argues that this assessment is incorrect because he states that the extra income is from the refund he received from Missouri.

As a threshold issue, it is the taxpayer's responsibility to establish that the existing tax assessment is incorrect. A proposed assessment is prima facie evidence that the Department's claim for the unpaid tax is valid. [IC 6-8.1-5-1\(c\)](#). The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. *Id.*; See e.g., *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012) and *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[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 by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

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 part that Indiana adjusted gross income starts with "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code) . . ." *Id.*

[IC 6-8.1-5-1](#)(b), mandates that "[i]f 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](#).

A review of Taxpayer's returns indicated that the unreported income was from IRAs, pensions, and annuities and social security benefits. Using the amended federal adjusted gross income ("AGI"), the Department adjusted Taxpayer's Indiana AGI from approximately \$125,000 to approximately \$149,000. The adjusted Indiana AGI then led to further adjustments of Taxpayer's state AGI tax and county tax. Thus, the adjustment to Taxpayer's Indiana income was in relation to income sources other than a tax refund from Missouri. Taxpayer's documentation does not support his position that this income was sourced to Missouri and not to Indiana.

Following a review of both the Indiana and federal documents, the Department correctly calculated its assessment. Taxpayer has not proven the proposed assessment wrong, as required by [IC 6-8.1-5-1](#)(c).

FINDING

Taxpayer's protest is denied.

July 25, 2023

Finding Replaces: New

Posted: 09/27/2023 by Legislative Services Agency
An [html](#) version of this document.