

**Letter of Findings: 01-20231647
Individual 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 Indiana Department of Revenue's (the "Department") 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 provided documentation establishing that the Department's assessment was incorrect.

ISSUE

I. Individual Income Tax - Assessment.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3-2-2](#); [IC 6-3-4-2](#); [IC 6-8.1-5-1](#); *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); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the Department's assessment of additional individual income tax.

STATEMENT OF FACTS

In 2019, Taxpayer and his wife resided in and received income from different states. Taxpayer lived and worked in Indiana while his wife lived and worked in Illinois. Taxpayer and his wife filed a joint federal tax return for tax year 2019. Taxpayer also filed Indiana Form IT-40 related to his Indiana income. His wife filed Illinois 2019 Form IL-1040 related to her income.

After review, the Indiana Department of Revenue ("Department") determined Taxpayer owed additional income tax and issued a Notice of Proposed Assessment. Taxpayer protested the assessment and requested resolution with a hearing. The Department contacted Taxpayer and requested additional information, which Taxpayer readily provided. After the receipt of additional information, an administrative hearing was unnecessary. This Letter of Findings results. Additional facts will be provided as necessary.

I. Individual Income Tax - Assessment.

DISCUSSION

The Department determined that Taxpayer owed additional income tax after reviewing information related to his 2019 Indiana tax return. Taxpayer disagreed and protested the assessment. In support, Taxpayer provided a copy of his federal Record of Account and his wife's Illinois individual income tax return. At the Department's request, Taxpayer also provided a copy of his Indiana individual income tax return.

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 DOR'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); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). An assessment, including Taxpayer's penalty assessment, is therefore presumed valid. A taxpayer must provide documentation explaining and supporting that the Department's position is wrong. Additionally, "[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).

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](#) provides a starting point in determining a taxpayer's taxable income and calculating what would be his/her Indiana income tax after applying certain additions and subtractions, with any necessary modifications following. Modifications are outlined in [IC 6-3-1-3.5\(a\)](#).

[IC 6-3-4-2\(d\)](#) provides that if a couple files a federal joint return, the couple must also file a joint Indiana return. The same is true if a couple files separate returns at the federal level; each spouse must file a separate Indiana return. [IC 6-3-4-2\(e\)](#).

A comparison of Taxpayer's federal Record of Account with Taxpayer's 2019 Indiana tax return and his wife's 2019 Illinois tax return shows the same total amount of adjusted gross income. The Department's assessment of additional income tax was incorrect.

The Department notes that it appears the assessment was triggered by Taxpayer's error in filing the 2019 Indiana tax return. Taxpayer and his wife filed a joint federal return. Because the federal return was a joint return, the couple was required to file a joint Indiana tax return even though Taxpayer was the only one with Indiana income. Taxpayer's Indiana return was filed as "married filing separately." This difference in "filing status" prompted a review of Taxpayer's account and resulted in an assessment. The Department kindly reminds Taxpayer to file the same type of return, whether joint or separate, in Indiana that he and his wife file at the federal level.

In summary, Taxpayer provided sufficient documentation showing the Department's assessment was wrong under [IC 6-8.1-5-1\(c\)](#). Taxpayer's protest is sustained.

FINDING

Taxpayer's protest is sustained.

July 7, 2022

Finding Replaces: New

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