

**Letter of Findings: 01-20231378**  
**Indiana 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 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Married couple protested the Indiana Department of Revenue's proposed assessment of additional Indiana individual income tax for the year 2019. Couple established that because of the withholdings amount, they owed the Department less than the proposed assessment amount.

### ISSUE

#### I. Individual Income Tax - Proposed Assessment.

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

Taxpayers protest the proposed assessment of additional Indiana state income tax for tax year 2019.

### STATEMENT OF FACTS

Taxpayers are a married couple. The Indiana Department of Revenue ("Department") issued to Taxpayers a notice of proposed assessment for additional Indiana state income tax for the tax year 2019. Taxpayers filed a Protest Submission Form ("Form") protesting the Department's proposed assessments. On the form Taxpayers checked the box indicating that they wanted a "Final determination without a hearing," which states that in forgoing the hearing that Taxpayers "ask[] the Department to make its decision based on the written protest and documentation (if any) the taxpayer presents along with the protest" and that the Taxpayers "waive[] the right to a hearing." Additional facts will be provided as necessary below.

#### I. Individual Income Tax - Proposed Assessment.

### DISCUSSION

In a letter dated December 14, 2022, the Department stated that a "review of your Indiana Individual Income tax for the tax period ending December 31, 2019, indicates you owe an additional \$700.35. This amount represents the full liability due including all assessed penalties and interest to date." The Department's letter also stated in pertinent part that the Department had "determined [Taxpayers] reported federal adjusted gross income (FAGI) is understated based on information received from external third-party sources," which "included information received from the Internal Revenue Service (IRS), employer wage information, or other income reported to DOR by the payer."

As a threshold issue, it is Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in [IC 6-8.1-5-1\(c\)](#), "[t]he 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." *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). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "when [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 an adjusted gross income tax on all residents. [IC 6-3-2-1\(a\)](#). Taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. [IC 6-3-1-3.5\(a\)](#). Taxpayers protest is regarding what they call "the amount of [c]redit stated" on the Department's Notice of Proposed Assessment. As Taxpayers explain:

We have attached the W2, 1099R, and the W-2G that show we have had \$5,644 withheld from our income.

We also made a payment of \$346.00 when we filed our 2019 taxes. In total we have paid \$6,010 which would mean we owe \$25 plus penalty and interest.

In other words, Taxpayers agree with the increase of their federal adjusted gross income, they simply want the Department to increase Taxpayers' Schedule 5 credits to properly reflect the withheld amounts. Taxpayers did not protest the penalty and interest. After a review of the Department's records, Taxpayers' have met the burden imposed under [IC 6-8.1-5-1\(c\)](#) of proving the proposed assessment incorrect. The Department will adjust the assessment to reflect this determination and will issue a corrected billing.

### FINDING

Taxpayers' protest that the Department needs to increase their credits to reflect the correct withholding amounts is sustained.

August 22, 2023

*Finding Replaces: New*

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