

Letter of Findings: 01-20231603
Individual Indiana 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 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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Indiana Individual was unable to establish that the amount of his 2019 federal adjusted gross income was wrong. As a result, Indiana law required the Department to assess additional Indiana income tax to comport with the amounts indicated on his federal return.

ISSUE

I. Indiana Individual Income Tax - Federal Adjusted Gross Income.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3-4-6](#); [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); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer argues that the Department's assessment of additional income tax was wrong because the Department's assessment was based on an erroneous IRS decision.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who routinely files federal and Indiana income tax returns. Taxpayer filed a 2019 Indiana income tax return. On that return, Taxpayer reported receiving approximately \$52,000 in "Federal AGI."

The Indiana Department of Revenue ("Department") reviewed the corresponding Indiana return. The Department concluded that Taxpayer underreported his adjusted gross income. As a result, the Department assessed Taxpayer approximately \$700 in additional Indiana income tax. In a letter dated February 2023, the Department explained why it was assessing the \$700.

A review of your Indiana Individual Income tax for the tax period ending December 31, 2019, indicates you owe an additional [\$700]. This amount represents all assessed penalties and interest to date.

....

The Indiana Department of Revenue has determined your reported federal adjusted gross income is understated based on information received from external third-party sources. The source could include employer wage information or other income reported to the Indiana Department of Revenue by the payer as well as information received from the Internal Revenue Service.

Taxpayer disagreed with the Department's decision and submitted a protest to that effect. In support of his protest, Taxpayer provided an "Account Transcript" obtained from the Internal Revenue Service ("IRS"). Taxpayer requested a "[f]inal determination without a hearing." This Letter of Findings is based on Taxpayer's explanation and the information and documentation available to the Department.

I. Indiana Individual Income Tax - Federal Adjusted Gross Income.

DISCUSSION

The issue is whether the Department made a mistake when it adjusted Taxpayer's original Indiana return and

then compounded that error by assessing the additional tax.

Taxpayer explained why he objected to the Department's assessment.

I am writing to challenge a Notice of Proposed Assessment I received regarding my 2019 return. That year I did receive a lump sum payment of a retirement account from my previous employer [] held by [insurance company]. I reported the entire amount. Federal and State Taxes were withheld which I claimed. I have reviewed my return and can find no error.

Along with Taxpayer's explanation and the IRS transcript noted above, Taxpayer also provided a copy of his W-2s, 1099-Rs, and 1099-INTs.

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](#)(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 specific 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 Code) . . ." *Id.*

As with any assessment of Indiana listed taxes, it is Taxpayer's 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, including during an action appealed to the tax court under this chapter. 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). If a taxpayer provides only a poorly developed or non-cogent argument, the Department will treat that argument as having been waived. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

The Department is in no position to disagree with any portion of the narrative provided. However, the issue is more straightforward. The IRS Account Transcript indicated that Taxpayer received approximately \$64,000 in adjusted gross income. However, Taxpayer reported approximately \$52,000 in federal adjusted gross income on his Indiana return.

In addressing Taxpayer's protest, the Department obtained an updated confirmation. That more recent confirmation verified that Taxpayer received \$64,000 in federal adjusted gross income. Taxpayer has not provided any information establishing that either of the written confirmations were incorrect, and the Department is in no position to second-guess the IRS on this matter. The Department cannot account for the obvious discrepancy. What is clear is that Indiana law specifies that the calculation of Indiana's tax begins with "'adjusted gross income' (as defined in Section 62 of the Internal Revenue Code) . . ." When and if the IRS revokes its original decision and changes the adjusted gross income from \$64,000 back to \$52,000, Indiana law would then allow Taxpayer to file an amended Indiana return reporting that change. [IC 6-3-4-6](#)(c). The Department would then be required to refund any excess tax.

As to this protest, Taxpayer's protest is denied because the Department is bound by the information available and because Taxpayer has not met his statutory burden under [IC 6-8.1-5-1](#)(c) of establishing that the Department's assessment was wrong.

FINDING

Taxpayer's protest is respectfully denied.

August 23, 2023

Finding Replaces: New

Posted: 11/01/2023 by Legislative Services Agency
An [html](#) version of this document.