

Letter of Findings: 01-20231666
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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's tuition deduction was already claimed on his parent's individual income tax return. Taxpayer is not allowed to also claim the tuition deduction on his individual tax return.

ISSUE

I. Individual Income Tax - Assessment.

Authority: [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3-2-2](#); [IC 6-8.1-5-1](#); *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); 26 U.S.C.A. § 222.

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

STATEMENT OF FACTS

Taxpayer is an Indiana resident. In 2019, he filed both a federal individual income tax return and an Indiana individual income tax return. After review, the Indiana Department of Revenue ("Department") determined Taxpayer owed additional individual 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 provided. The Department and Taxpayer then discussed matters via a telephonic hearing. 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, federal individual income tax return, and Indiana individual income tax return for tax year 2019.

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); *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\(a\)](#). [IC 6-3-2-2\(a\)](#) also 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\(a\)](#).

In general, 26 U.S.C.A. § 222 allows a deduction for qualified tuition and related expenses paid by a taxpayer during the taxable year, assuming certain dollar limitations and other qualifying conditions are met. 26 U.S.C.A. § 222(c) does not allow a "double benefit" for the tuition deduction. Specifically, § 222(c)(3) provides that if an individual is a dependent, "No deduction shall be allowed under subsection (a)...with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins." In other words, an individual may only claim a valid tuition deduction one time for the relevant tax year - whether as a dependent on another person's taxes or on his/her individual taxes.

A review of Taxpayer's 2019 federal income tax return shows that on the "Standard Deduction" portion, Taxpayer checked the box that he was a dependent. Further review of the Department's records shows that Taxpayer was claimed on his parent's return and that individual claimed Taxpayer's tuition deduction. Based on the provisions in 26 U.S.C.A. § 222(c)(3), Taxpayer and his parent are not allowed a "double benefit," and only one of them can claim the deduction. In this instance, the deduction was allowed on the parent's return. Because the tuition deduction was already claimed, Taxpayer is not entitled to claim a tuition deduction. Taxpayer's protest is denied.

FINDING

Taxpayer's protest is denied.

August 29, 2023

Findings Replaces: New

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