

**Letter of Findings: 01-20231664
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Individual has 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 2019 income tax was incorrect.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. The Indiana Department of Revenue ("Department") determined that Taxpayer underreported his federal adjusted gross income by approximately \$54,000. An adjustment was made to Taxpayer's federal return, which prompted a review of his Indiana tax return. The Department's review resulted in a proposed assessment of additional 2019 Indiana income tax.

Taxpayer disagreed with the assessment and submitted a protest to that effect. Taxpayer requested a decision with an administrative hearing. This Letter of Findings results. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Federal Discrepancy.

DISCUSSION

Taxpayer protests the imposition of additional Indiana income tax for the tax year 2019. The Department based its assessment on information received regarding Taxpayer's federally reported income. Taxpayer protests that the Department incorrectly relied on the federally reported income amount.

Taxpayer states that he got married in 2019 to someone from another state. The couple filed their 2019 federal returns jointly, however, the filing software used would not allow the couple to file jointly in both states. Taxpayer states that his wife filed as a part-time resident in her home state and then filed separately in Indiana.

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) 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's 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](#).

The federal transcript provided to the Department by Taxpayer indicated that he reported the correct federal adjusted gross income ("AGI") amount on his 2019 federal return, and that the discrepancy was based on his spouse's income from another state.

Following a review of both the Indiana and federal documents, the Department understands the discrepancy between the federal and state returns and will adjust its records to show that Taxpayer correctly reported the total amount of income subject to Indiana state income tax. Taxpayer has met the burden of proving the proposed assessment incorrect, as required by [IC 6-8.1-5-1](#) (c). The Department kindly reminds Taxpayer to file the same type of return, whether joint or separate, in Indiana that he and his wife filed at the federal level. This will help avoid miscommunications and misunderstandings such as those discussed in this protest.

FINDING

Taxpayer's protest is sustained.

October 17, 2023

Findings Replaces: New

Posted: 01/03/2024 by Legislative Services Agency

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