

**Letter of Findings: 01-20231764**  
**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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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**

Individual provided documentation establishing that the Department's assessment was incorrect.

**I. Individual Income Tax - Federal Discrepancy.**

**Authority:** IRC § 62; [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).

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

**STATEMENT OF FACTS**

Taxpayer and his wife are in the military. For purposes of income tax, Taxpayer is a resident of Indiana. Taxpayer's wife is a resident of Nevada. For tax year 2019, Taxpayer filed an individual Indiana income tax return. Taxpayer and his wife also filed a joint federal tax return for 2019.

After reviewing taxpayer's return, the Indiana Department of Revenue ("Department") determined that Taxpayer's federal adjusted gross income was understated on his Indiana income tax return. The Department adjusted his return to reflect his federally reported adjusted gross income and issued a Notice of Proposed Assessment for income taxes on his unreported income. Taxpayer protested this assessment. An administrative hearing was held, and this Letter of Findings results. Additional facts will be provided as necessary.

**I. Individual Income Tax - Federal Discrepancy.**

**DISCUSSION**

The Department determined that Taxpayer owed additional income tax after reviewing information related to his 2019 Indiana income tax return. Taxpayer disagreed and protested the assessment. In support of his protest, Taxpayer provided a copy of his 2019 W-2, his wife's 2019 W-2, his 2019 Indiana income tax return, and his 2019 federal tax account transcript.

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 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.* Consequently, a taxpayer must provide documentation explaining and supporting that the Department's position is wrong. See *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). 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. The starting point for determining Indiana income tax is the taxpayer's federal adjusted gross income ("FAGI") as defined in I.R.C. § 62, which

taxpayers are directed to enter on their Indiana return before making certain modifications that are outlined in [IC 6-3-1-3.5](#).

Taxpayer filed a federal joint return with his wife wherein his FAGI was the sum of his income and his wife's income. When he filed an individual Indiana income tax return, he reported only his adjusted gross income. Because Indiana relies on the taxpayer's reported FAGI as a starting point for Indiana income tax, this triggered an assessment for additional taxes on unreported income. For income tax purposes, Taxpayer's wife was a resident of Nevada in tax year 2019. Taxpayer's wife did not live in Indiana or receive income from Indiana in tax year 2019. Taxpayer provided his wife's W-2 which reflects that her income equates to the amount of unreported income noted in the assessment. Nevada does not collect income tax and therefore does not require the filing of a tax return.

Because the unreported income was not derived from an Indiana source, no additional Indiana income tax was due. Therefore, Taxpayer provided sufficient documentation showing the Department's assessment was incorrect under [IC 6-8.1-5-1\(c\)](#). Taxpayer's protest is sustained. 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 11, 2023

*Finding Replaces: New*

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