

**Letter of Findings: 01-20231417
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

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

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](#); *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 Department's assessment of additional individual income tax.

STATEMENT OF FACTS

Taxpayers are a married couple and Indiana residents. Taxpayers filed an Indiana individual income tax return for tax year 2019. After review, the Indiana Department of Revenue ("Department") determined Taxpayers owed additional income tax and issued a Notice of Proposed Assessment. Taxpayers protested the assessment and requested resolution with a hearing. An administrative hearing was held. This Letter of Findings results. Additional facts will be provided as necessary.

I. Individual Income Tax - Assessment.

DISCUSSION

The Department determined that Taxpayers owed additional individual income tax related to tax year 2019. Taxpayers disagreed with the assessment and initiated a protest. In support, Taxpayers provided copies of two Form 1099-Rs, a copy of their federal Record of Accounts, and documents from an annuity administrator.

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\(a\)](#) 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\(a\)](#).

During the administrative hearing, Taxpayers explained that they timely filed both their federal and state tax returns for tax year 2019. An issue subsequently arose due to an error by Annuity Administrator A. Taxpayers originally received Form 1099-R from Annuity Administrator A, which noted that Taxpayers received a distribution of approximately \$61,000 during tax year 2019. Taxpayers used this form to prepare both their federal and state returns for tax year 2019. The form indicated the entire \$61,000 distribution was taxable. In November 2021, Annuity Administrator A contacted Taxpayers and informed them the original Form 1099-R was coded incorrectly related to the taxability of the distribution. Annuity Administrator A then issued a corrected Form 1099-R. The corrected version showed a taxable amount of zero.

Related to the above issue, a second issue arose when the Department reviewed Taxpayers' account regarding the discrepancies. The Department noted a difference of approximately \$13,000 and determined Taxpayers owed income tax on this amount. Taxpayers explained that this was a distribution from Annuity Administrator B and was related to a death in their family. Taxpayers provided a copy of Form 1099-R for this distribution. Form 1099-R for this distribution shows a "zero taxable" amount.

It appears the assessment related to the \$13,000 distribution was an error by the Department. A review of Taxpayers' account shows that they correctly calculated their adjusted gross income when they originally filed their Indiana individual income tax return. The \$13,000 was not taxable at the time of filing, and it is not clear why the Department determined it was during a subsequent review. The Form 1099-R shows the distribution was not taxable.

To summarize, Taxpayers provided documentation showing the \$61,000 distribution was an error by Annuity Administrator A and no monies from that distribution were taxable. Further, Taxpayers provided documentation showing that \$13,000 was not taxable and that this information was correctly filed on their 2019 tax return. Taxpayers have shown that the Department's assessment was incorrect under [IC 6-8.1-5-1\(c\)](#). Taxpayers' protest is sustained.

FINDING

Taxpayers' protest is sustained.

November 17, 2023

Finding Replaces: New

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