

**Letter of Findings: 01-20231786
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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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](#); *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)

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

STATEMENT OF FACTS

Taxpayer is an Indiana resident. During 2019, Taxpayer and her then husband separated. Taxpayer continued living in Indiana while her husband was residing and working in Tennessee. For tax year 2019, Taxpayer and her husband jointly filed a 1040 federal tax return. Taxpayer then filed as married filing separately on the Indiana IT-40 individual income tax return.

After reviewing Taxpayer's return, the Indiana Department of Revenue ("Department") determined that Taxpayer's federal adjusted gross income was understated on her Indiana income tax return. The Department then adjusted her return to reflect her federally reported adjusted gross income and issued a Notice of Proposed Assessment for income taxes on her 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 her 2019 Indiana income tax return. Taxpayer disagreed and protested the assessment. In support of her protest, Taxpayer provided a copy of her Federal Record of Account for tax year 2019, a transcript of her 2019 federal return, a copy of her 2019 Indiana tax return, her husband's 2019 W-2s, and her 2019 W-2s.

As a threshold issue, all tax, penalty, and interest assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. [IC 6-8.1-5-1\(c\)](#); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). 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 her then husband wherein her FAGI was the sum of her income and her husband's income. When she filed an individual Indiana income tax return, she reported only her adjusted gross income. Because Indiana relies on the taxpayer's reported FAGI as a starting point for Indiana income tax, reporting only her income to Indiana triggered an assessment for additional taxes on unreported income. For income tax purposes, Taxpayer's then husband was a resident of Tennessee in tax year 2019. Taxpayer provided her then husband's W-2s which reflected that he was also earning income solely from Tennessee during 2019. Taxpayer's former husband's W-2s equate the amount of unreported income noted in the assessment. Tennessee 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 she files at the federal level. This will help avoid miscommunications and misunderstandings such as those discussed in this protest.

FINDING

Taxpayer's protest is sustained.

November 9, 2023

Finding Replaces: New

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