

**Letter of Findings: 01-20232234**  
**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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 established that the Department's assessment was overstated.

### ISSUE

#### I. Individual Income Tax - Unreported Income.

**Authority:** IRC § 62; [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [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 Indiana individual income tax.

### STATEMENT OF FACTS

Taxpayer is an Indiana resident. In July 2020, Taxpayer filed an Indiana individual income tax return for tax year 2019. In February 2023, Taxpayer received a notice of proposed assessment from the Indiana Department of Revenue ("Department") indicating that she owed additional Indiana income tax for tax year 2019. Taxpayer disagreed and filed a protest to that effect and waived her right to a hearing. This Letter of Findings results. Additional facts will be provided as necessary.

#### I. Individual Income Tax - Unreported Income.

### DISCUSSION

The Department determined that Taxpayer owed additional income tax after reviewing information related to her 2019 income tax return. Taxpayer disagreed and protested the assessment. In support of her protest, Taxpayer provided a copy of her original Indiana individual income tax return, also known as the Form IT-40, and an amended IT-40 for tax year 2019. In her protest, Taxpayer explained that she failed to report self-employment income on her original IT-40 and subsequently filed an amended return to remediate the error.

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.* 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](#). 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 the modifications outlined in [IC 6-3-1-3.5](#).

Upon review of the Department's records, Taxpayer was employed in 2019 and received a W-2 from her employer. During that year, she also operated a boutique business. Taxpayer initially failed to report her self-employment income from her business on her IT-40. Taxpayer concedes this income was subject to Indiana income tax. To correct this error, Taxpayer submitted an amended return, but this return only included her self-employment income. Taxpayer's amended return should have included all her income, both from her original return and any self-employment income. This error of failing to include all her income on the amended return resulted in a large assessment of approximately \$1,200. Because the amended return contained incorrect figures, the resulting assessment amount was also incorrect. Upon a review of the Department's records, accounting for all of Taxpayer's income for the relevant tax year, the Department recognizes the resulting assessment should be reduced to approximately \$58.

### **FINDING**

Taxpayer's protest is sustained to the extent described above.

February 6, 2024

*Replaces Finding Document at: New*

*Posted: 04/24/2024 by Legislative Services Agency*  
An [html](#) version of this document.