

Letter of Findings: 01-20232094
Individual Income Tax
For The Year 2022

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 failed to establish that the assessment for additional Indiana income tax was incorrect.

ISSUE

I. Individual Income Tax - Retirement Account Distributions.

Authority: I.R.C. § 61; I.R.C. § 62; I.R.C. § 408; [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 who regularly files Indiana individual income tax returns. In 2023, Taxpayer received a Notice of Proposed Assessment from the Indiana Department of Revenue ("Department") indicating that he owed additional Indiana individual income tax for 2022. Taxpayer submitted a protest. This Letter of Findings results. Additional facts will be provided as necessary.

I. Individual Income Tax - Retirement Account Distributions.

DISCUSSION

The Department determined that Taxpayer owed additional Indiana income tax after reviewing his 2022 Indiana individual income tax return. Taxpayer protested the assessment. In his protest, Taxpayer explained that he made a large withdrawal from his retirement account. After making the withdrawal, he lost a large sum of money, including the amount he withdrew from his retirement account, due to a scam.

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](#).

I.R.C. § 62 defines adjusted gross income as gross income minus certain deductions which are enumerated under I.R.C. § 62. I.R.C. § 61 defines gross income as "all income from whatever source derived. . ." I.R.C. § 408 notes that, "[e]xcept as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement plan shall be included in gross income by the payee or distributee. . ."

When Taxpayer initially filed his Indiana individual income tax return, he did not include the funds he received from his retirement account in his adjusted gross income. Pursuant to § I.R.C 408, I.R.C. § 62, and [IC 6-3-2-1](#), distributions from a retirement account are to be included in gross income and are therefore subject to Indiana income tax. Taxpayer concedes that he understood the tax implications from making the withdrawal. Taxpayer has failed to establish that the Department's assessment for additional Indiana income tax was incorrect.

FINDING

Taxpayer's protest is denied.

February 6, 2024

Replaces Finding Document at: New

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