

**Letter of Findings: 01-20221546
Individual Income Tax
For The Year 2018**

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 she was erroneously disallowed scholarship tax credits, which resulted in the Department assessing more tax than was due.

ISSUE

I. Individual Income Tax - Scholarship Tax Credit.

Authority: I.R.C. § 62; [IC 6-3-1-3.5](#); [IC 6-3-2-1](#); [IC 6-3.1](#) *et seq.*; [IC 6-3.1-30.5](#) *et seq.*; [IC 6-3.1-30.5-7](#); [IC 6-3.1-30.5-11](#); [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 March 2022, Taxpayer received a notice of proposed assessment from the Indiana Department of Revenue ("Department") indicating that her federal adjusted gross income was understated on her Indiana individual income tax return. The Department assessed additional tax on the unreported portion of her income for the 2018 tax year. Taxpayer disagreed and timely filed a protest to that effect in May 2022. A hearing was held, and this Letter of Findings results. Additional facts will be provided as necessary.

I. Individual Income Tax - Scholarship Tax Credit.

DISCUSSION

The Department determined that Taxpayer owed additional income tax after reviewing information related to her 2018 income tax return. Taxpayer disagreed and protested the assessment. In support of her protest, Taxpayer provided a copy of her Indiana individual income tax return and federal account transcript for the 2018 tax year.

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](#). In addition to modifications, Indiana law also provides tax credits within [IC 6-3.1](#) *et seq.* to reduce state income tax liability. One such credit is Indiana's School Scholarship Tax Credit, outlined under [IC 6-3.1-30.5](#) *et seq.*

[IC 6-3.1-30.5-7](#)(a) states:

A taxpayer that makes a contribution to a scholarship granting organization for use by the scholarship granting organization in a school scholarship program is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the taxpayer makes the contribution.

Additionally, [IC 6-3.1-30.5-11](#) provides:

To apply a credit against the taxpayer's state tax liability, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the [D]epartment. The taxpayer shall submit to the [D]epartment the information that the [D]epartment determines is necessary for the [D]epartment to determine whether the taxpayer is eligible for the credit.

Taxpayer agreed that her income was understated on her Indiana individual income tax return. Taxpayer disagreed, however, with the Department's calculation of the proposed assessment, believing it to be overstated.

Upon review of the Department's records, Taxpayer claimed a \$2,000 tax credit under Indiana's School Scholarship Program for donations she made to a scholarship granting organization. In her original return, Taxpayer provided information identifying the donations made to the scholarship granting organization. This credit was erroneously disallowed by the Department. Taxpayer's individual income tax return will be corrected to allow the Indiana's School Scholarship tax credit as originally claimed. Taxpayer is still liable for the remaining assessment based on the discrepancy in her adjusted gross income.

FINDING

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

February 6, 2024

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