

**Letter of Findings: 01-20210029**  
**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 Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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**

Assessment of individual income tax was based on Taxpayers' erroneous tax credit reporting. The proposed assessment for underpayment of taxes is therefore corrected. Correcting these errors also reduced Taxpayers' outstanding liability below the threshold for requiring estimated tax payments. The penalty assessment issued for failure to make said payments was therefore eliminated.

**ISSUE**

**I. Income Tax - Tax Credits.**

**Authority:** IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-3-3; IC § 6-3-4-4.1; 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*, 897 N.E.2d 289 (Ind. Tax Ct. 2007); Income Tax Information Bulletin 3 (June 2008); Income Tax Information Bulletin 29 (November 2016).

Taxpayers protest the imposition of Indiana individual income tax.

**STATEMENT OF FACTS**

Taxpayers are individuals living in Indiana and working in both Indiana and Illinois. Taxpayers timely filed a Form IT-40 income tax return for 2019 and paid their outstanding tax liability. Upon review, the Department found that the Taxpayers incorrectly added lines 12 and 13 on the return, effectively overstating their tax credits. The Department corrected this arithmetic error and issued Proposed Assessments for the remaining tax liability and for a penalty for failure to make estimated tax payments throughout 2019. Taxpayers protested the proposed assessments and opted to waive their right to a hearing. This Letter of Findings is therefore based on the documentation provided with the Taxpayers' protest letter. Further facts will be supplied as necessary.

**I. Income Tax - Tax Credits.**

**DISCUSSION**

Taxpayers protest the assessment of Indiana income tax for the 2019 tax year. Taxpayers believe their income has been incorrectly taxed both by Indiana and Illinois.

As a threshold issue, it is a taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid, including during an action appealed to the tax court under this chapter. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." See also *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012) and *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 897 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[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). Thus, all interpretations of Indiana tax law in this decision shall be entitled to deference.

Every resident of Indiana is required to pay tax on a percentage of their adjusted gross income. IC § 6-3-2-1(a). Indiana defines adjusted gross income as it is defined in Internal Revenue Code § 62, with several modifications. IC § 6-3-1-3.5. Indiana also offers tax credits which can reduce a taxpayer's liability in Indiana. See generally IC § 6-3-3 *et seq.* One of these credits is for taxes paid to states other than Indiana. IC § 6-3-3-3. The Department elaborated on the application of this credit in Income Tax Information Bulletin 29 (November 2016):

The taxpayer may take a credit for taxes paid to other states against the taxpayer's Indiana adjusted gross income tax liability.

[ . . . ]

The credit is equal to the least of the following:

- The amount of income tax actually paid to the other state, possession, or foreign country on income from that jurisdiction;
- An amount equal to the Indiana income tax rate multiplied by the adjusted gross income taxed by both Indiana and the jurisdiction; or
- The amount of Indiana adjusted gross income tax due to Indiana for the tax year.

Income Tax Information Bulletin 29 (November 2016), 20161228 Ind. Reg. 045160560NRA. This credit ensures that income taxed by another state is not also taxed by Indiana.

Certain individuals are also required to make estimated income tax payments throughout the tax year. IC § 6-3-4-4.1. To qualify, individuals must have 1) income taxable in Indiana from which income tax was not already withheld, and 2) an estimated tax liability over \$1,000. Income Tax Information Bulletin 3 (June 2008) 20080528 Ind. Reg. 045080399NRA. If both of those qualifications are met, and sufficient estimated payments are not made, a penalty will be assessed in addition to the outstanding tax liability. *Id.*

As part of their appeal, Taxpayers provided their Indiana IT-40 for 2019, including all associated schedules, an IT-2210 underpayment form, multiple W-2s, and their 2019 IL-1040 tax return from Illinois. These documents confirm that the Taxpayers made multiple errors in determining their Indiana tax credits. The Department's proposed assessments, however, do not account for all of these errors.

Instead of determining their tax credit for payments to Illinois in accordance with Income Tax Information Bulletin 29, Taxpayers erroneously claimed a credit on the entire amount of tax paid to Illinois when they were only entitled to the lesser credit of the Indiana income tax rate multiplied by the adjusted gross income taxed by both Indiana and Illinois. This figure was also placed on line 14 of their IT-40 return, instead of line 13, which led to an arithmetic error in determining the total amount of Indiana tax credits. The Department's proposed assessments fixed the arithmetic error but failed to account for the incorrect calculation of tax credit for tax paid to Illinois. Therefore, the Department shall recalculate the tax liability, underpayment penalty, and associated interest, and issue a corrected proposed assessment.

Correcting these errors also eliminates the Department's second proposed assessment, which was issued for a failure to make estimated tax payments. When calculated correctly, the Taxpayers' outstanding tax liability was less than \$1,000, meaning no penalty for failing to make estimated payments was owed.

After reviewing the documents provided by the Taxpayers, the Department finds that the Taxpayers met the burden imposed under IC § 6-8.1-5-1(c) and have proven the proposed assessments wrong. The proposed assessment issued to the Taxpayers for an outstanding liability will be corrected and reissued and the proposed assessment issued or a failure to make estimated payments will be eliminated.

### FINDING

Taxpayers' protest is sustained.

February 26, 2021

Posted: 07/07/2021 by Legislative Services Agency  
An [html](#) version of this document.