

Letter of Findings: 01-20200320
Indiana Individual Income Tax
For the 2016 Tax Year

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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

Couple provided sufficient documentation that the credits from their schedule 5 should be increased to reflect the unreported state tax withheld from securities income.

ISSUE

I. Individual Income Tax - Federal Discrepancy.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; *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); IRC § 61; IRC § 62; IC § 6-3-4-8.

Taxpayers protest the Department's assessment of individual income tax.

STATEMENT OF FACTS

Taxpayers protested the Department's assessment which was based on a federal discrepancy, requesting that the Department make its determination after conducting an administrative hearing. This Letter of Findings results from the information submitted by Taxpayers as well as the Department's records. Additional facts will be provided as necessary.

I. Individual Income Tax - Federal Discrepancy.

DISCUSSION

Taxpayers received adjustments to their 2016 federal income tax return. Taxpayers' federal adjusted gross income increased due to unreported interest income and securities income. In response, the Department adjusted Taxpayers' 2016 Indiana income tax return to reflect the federal adjustments. The Department then notified Taxpayers. Taxpayers agree with the new adjusted gross income but believe their schedule 5 tax credits should be increased to reflect unreported state tax withheld from their securities income.

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. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *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*, 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 contained within this decision, as well as the preceding audit, shall be entitled to deference.

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(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers file their federal income tax returns as required pursuant

to the Internal Revenue Code. In computing what is considered a taxpayer's Indiana income tax, IC § 6-3-1-3.5(a) refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) states that - with certain modifications specific to Indiana law - I.R.C. § 62 defines "adjusted gross income" for Indiana taxpayers.

Indiana defines the term adjusted gross income "as [it is] defined in Section 62 of the Internal Revenue Code" with Indiana-specific modifications. IC § 6-3-1-3.5(a). Section 62 of the Internal Revenue Code defines adjusted gross income as "gross income minus . . . deductions." IRC § 62(a). Gross income is, in turn, defined as "all income from whatever source derived." IRC § 61(a).

IC § 6-3-4-8(a) provides the following:

Except as provided in subsection (d), every employer making payments of wages subject to tax under this article, regardless of the place where such payment is made, who is required under the provisions of the Internal Revenue Code to withhold, collect, and pay over income tax on wages paid by such employer to such employee, shall, at the time of payment of such wages, deduct and retain therefrom the amount prescribed in withholding instructions issued by the department.

Taxpayers provided bank statements showing the amount of Indiana state income tax withheld from their securities' income. The Department agrees that Taxpayers' 2016 return should have been adjusted for unreported income and unreported tax withholdings, but the Department's records only show an adjustment for income. After adjusting Department records to reflect this discrepancy, there is still an outstanding liability that is lower than what was originally assessed. A new assessment for the correct amount of tax liability will be issued.

FINDING

Taxpayers' protest is sustained.

June 25, 2021

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