

*Note: The appeal period has expired, pursuant to Iowa Admin. Code rule 701-7.17(8)(d) the Administrative Law Judge's proposed decision is adopted as the final decision by the Department.*

Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building  
Des Moines, Iowa 50319

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IN THE MATTER OF:

DARYN R. GEIB and  
CAROL L. GEIB  
207 SE Booth Avenue  
Waukee, Iowa 50263

DIA No. 19IDR0088  
Rev. No. 2018-200-1-0085

PROPOSED DECISION

Individual Income Tax.

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**STATEMENT OF THE CASE**

Daryn and Carol Geib filed a protest of a notice of assessment issued by the Department of Revenue (the Department) on December 21, 2017. The notice assessed tax, penalty, and interest for the 2014 and 2015 tax years. This matter came on for hearing at the Wallace State Office Building in Des Moines, Iowa on August 2, 2019. Daryn Geib appeared on behalf of himself and Ms. Geib. Assistant Attorneys General Laurie Heron McCown and Paxton Williams represented the Department. Also present on behalf of the Department was Reid Jewel. The Department offered Exhibits A through J that were admitted into the record.

**FINDINGS OF FACT**

Daryn and Carol Geib used "pre-tax dollars," that is, money deducted from their gross salary before income taxes were paid, towards their health insurance premiums in 2014 and 2015. Mr. and Ms. Geib deducted \$5,376 in health insurance premiums on their 2014 tax return. They deducted \$11,020 in health insurance premium payments on their 2015 tax return. Thereafter, the Department audited Mr. and Ms. Geib's 2014 and 2015 tax filings and determined these deductions were not allowed. The Department adjusted the tax filings accordingly and assessed additional tax and interest. (Exhibits A-G; Notice of Assessment).

Mr. and Ms. Geib timely protested the Department's assessment of additional tax and interest. They acknowledge they used pre-tax dollars to pay their health insurance premiums in 2014 and 2015. Mr. and Ms. Geib failed to submit any evidence or legal justification for subsequently taking a deduction on their taxes for those payments. Instead, they argue the Department's failure to timely respond to their protest lacked procedural fairness. Mr. and Ms. Geib assert that the Department took approximately eleven months to respond to their protest, and during that time, they lost any documents that supported their position. (D. Geib argument).

**CONCLUSIONS OF LAW AND ANALYSIS**

Iowa law imposes an income tax upon “every resident and non-resident of the state which tax shall be levied, collected, and paid annually upon and with respect to the entire taxable income as defined by statute.”<sup>1</sup> “Taxable income” is defined as the net income minus allowable deductions.<sup>2</sup> “Net income” means the adjusted gross income before the net operating loss deduction as properly computed for federal income tax purposes under the Internal Revenue Code with the adjustments provided for pursuant to the Iowa Code.<sup>3</sup> “Tax year” is defined as the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed.<sup>4</sup>

Daryn and Carol Geib filed a timely protest of the Department’s adjustments to their 2014 and 2015 taxes. They carry the burden of proof in challenging the assessment issued to them on December 21, 2017.<sup>5</sup> Mr. and Ms. Geib failed to submit any evidence or legal authority to support their protest.

Instead, Mr. and Ms. Geib argued the process following the filing of their protest lacked procedural fairness because the Department failed to respond in a timely manner. Upon the filing of a proper protest, individuals are encouraged to utilize the informal procedures provided by the Department’s regulations so that a settlement may be reached without the necessity of initiating a contested case proceeding.<sup>6</sup> During the informal process, the Department reviews and evaluates the validity of said protest and determines the correct amount of tax owing or refund due.<sup>7</sup> While there are no rules governing the timing of the Department’s actions during the informal process, it is unfortunate that it took so long in Mr. and Ms. Geib’s case. Nevertheless, Mr. and Ms. Geib had the option to waive the informal procedure for their protest and proceed directly to a contested case proceeding by notifying the Department that they wished to do so.<sup>8</sup> No such waiver was submitted in this case.

Accordingly, the undersigned administrative law judge must conclude that the Mr. and Ms. Geib failed to meet the requisite burden of proof in this matter. For these reasons, the Department’s assessment dated December 21, 2017 is affirmed.

Dated this September 13, 2019.



Kristine M. Dreckman  
Administrative Law Judge

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<sup>1</sup> Iowa Code § 422.5(1).

<sup>2</sup> Iowa Code § 422.4(16).

<sup>3</sup> Iowa Code § 422.7 (list of allowable adjustments follows within 49 subsections).

<sup>4</sup> Iowa Code § 422.4(17).

<sup>5</sup> Iowa Code § 421.60(6)(c).

<sup>6</sup> 701 Iowa Administrative Code (IAC) 7.11(1).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

cc: Laurie Heron McCown, Paxton Williams

### **NOTICE**

Pursuant to 701 Iowa Administrative Code 7.17(8)(d), this order becomes the final order of the Department for purposes of judicial review or rehearing unless a party files an appeal to or review on motion of the director with 30 days of the date of this order, including Saturdays, Sundays and legal holidays, of the date of this Proposed Decision to file an appeal to the Director of the Department of Revenue. The appeal shall be directed to:

Office of the Director  
Iowa Department of Revenue  
Hoover State Office Building  
Des Moines, Iowa 50319