



Indiana Department of Revenue

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Income Tax Information Bulletin #32

Subject: General Information on Local Income Taxes

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Summary of Changes

Apart from technical, nonsubstantive changes, this bulletin has been revised to reflect the income tax exemption for nonresident employees who work in Indiana for 30 or fewer days per year and to provide a safe harbor related to county tax imposition for individuals working second jobs or part-time jobs in Indiana.

Introduction

In 1973, the Indiana General Assembly enacted legislation that provided each county the option of adopting a County Adjusted Gross Income Tax (CAGIT). Legislation was enacted in 1984 that provided each county the option of adopting an alternative county income tax, known as the County Option Income Tax (COIT). A third income tax, enacted in 1987, known as the County Economic Development Income Tax (CEDIT), could stand alone or be supplementary to the first two.

CAGIT was enacted to provide the adopting counties with additional funds, to be used in part for property tax relief. COIT was enacted to provide counties with additional funds, part of which are used to: (1) replace the amount, if any, of the property tax revenue lost due to allowing an increased homestead credit within the county, and (2) make distributions of distributive shares to the civil taxing units of a county. CEDIT was enacted to allow counties to raise funds for local economic development projects.

However, in 2015, the Indiana General Assembly enacted legislation that replaced the CAGIT, COIT, and CEDIT with a single Local Income Tax (LIT), consolidating the taxes and various purposes of the taxes into one tax type and one set of statutes. LITs became effective beginning with the 2017 tax year.

County of Residence and County of Work

The taxpayer's county of residence is determined as of Jan. 1 each year. For purposes of county tax, an individual's county of residence is determined by the county where the taxpayer maintains their primary home.

The taxpayer's county of principal business or employment is also determined as of January 1 each year. An individual's county of principal business or employment is that county where the taxpayer receives the greatest percentage of their gross income from salaries, wages, commissions, fees or other income of this type. If an individual is self-employed, the county of principal business or employment is that county where the individual's principal place of business is located. If an individual has two or more sources of income from two or more counties, the principal source will be evidenced by the percent of income received from each county and the percent of time spent in each county.

Change in County of Residence or County of Work Within the Taxable Year

The county of residence and county of principal business or employment determined as of Jan. 1 each year are fixed as of that date for local income tax purposes for the entire tax year. Any change in an individual's county of residence or county of principal business or employment during the year will not affect the county for which they are liable for local income tax. Form WH-4 establishes, for withholding purposes, the taxpayer's county of residence or county of principal business or employment. If an individual moves or changes their place of employment or business during the year, a new WH-4 must be completed. Completion of a new WH-4 will serve only to establish the county of residence and county of principal business or employment for the ensuing year.

Income Subject to Local Income Tax

At this time, all counties in Indiana have enacted a LIT. Residents of an Indiana county are subject to that county's local income tax at the tax rate imposed by that county on their entire adjusted gross income. The adjusted gross income for LIT purposes will be the Indiana adjusted gross income.

If an individual resides outside the state of Indiana, but the individual's principal place of business or employment is in an Indiana adopting county, the adjusted gross income derived from the Indiana adopting county is subject to county tax at the same rate as resident taxpayers. Reciprocal agreements between the state of Indiana and other states do not apply to the taxpayer's liability

for county tax. In addition to compensation or self-employment income, an individual is subject to LIT on any other income derived from the county of principal business or employment. This includes business profits and losses from ownership of partnerships and S corporations, sales or exchanges of property from the county of principal place of business or employment, and any other income derived from the county of principal business or employment.

The only deductions allowed from principal business or employment income are those that directly apply to the production of income from one's principal place of business or employment. They do not include Indiana deductions that are not related to the production of income except to the extent reflected in the net income of a business such as a sole proprietorship, partnership, or S corporation.

The following deductions are considered directly related to the production of principal business or employment income:

- Ordinary and necessary business expenses attributable to the income from a county taxpayer's principal place of business;
- Reimbursed employee business expenses to the extent that they are deductible in computing Indiana adjusted gross income and that are attributable to the income from a county taxpayer's principal business or employment;
- Payments to self-employed retirement plans and an IRA attributable to income from a county taxpayer's principal business or employment, to the extent such payments are deductible in computing Indiana adjusted gross income, and are deductible in arriving at the county adjusted gross income subject to tax;
- Certain business expenses performing artists and fee-based government officials;
- One-half of self-employment tax;
- SEP, SIMPLE and qualified plans; and
- Self-employed health insurance deduction.

For 2023 and earlier, if a nonresident individual reports income only from their primary employment, as opposed to secondary or part-time employment, the reporting by the individual of the income from only their primary employment is permitted. The exclusion of income for local income tax purposes is permitted only for part-time or secondary employment income. Income from other sources such as from businesses or sales of property will continue to be taxed for local income tax as otherwise provided under 45 IAC 3.1-4. If an individual files a claim for refund based on this allowance, the individual must establish that the individual is reporting their income tax and credits for out-of-state taxes with the individual's state of residence in a consistent manner.

For 2024 and later, a nonresident individual is exempt from local income tax on compensation received as an employee if the individual meets all of the following criteria:

- The individual is a nonresident of Indiana for the entire taxable year.
- The individual does not perform services as an employee in Indiana for more than 30 days during the taxable year. For purposes of the 30-day rule, the following apply:
 - If an individual performs services in multiple states other than their state of residence during a particular day, the individual will be considered to be working

- in Indiana on that day if the individual performed services as an employee for more time in Indiana than in any other state on that day.
- If an individual performs services only in Indiana and in their state of residence during a particular day, the individual will be considered to have performed services in Indiana.
- The individual's compensation is not derived from a public figure, professional athlete, professional team member, race team member, or entertainer. If an individual receives compensation in one of these capacities, the individual cannot exclude other compensation derived outside these capacities.

The exemption for nonresident employees does not extend to income other than wages, salaries, tips, and similar compensation as an employee. In addition, this exemption does not extend to deferred compensation unless, and only to the extent, the underlying compensation was exempt from taxation under the 30-day rule during a prior year and the individual is not an Indiana resident at the time the individual receives the deferred compensation.

Tax Rates

Three general categories of LIT rates are available for a county to enact. A county may enact an expenditure rate of up to 2.5% (2.75% for Marion County) subject to the provisions of IC 6-3.6-6. In addition, a county may enact a rate of 1.25% for purposes of property tax relief as permitted under IC 6-3.6-5. Also, various counties are authorized to enact special purpose LIT rates for purposes specified under IC 6-3.6-7.

Under LIT, the cumulative resident CAGIT, CEDIT, and COIT tax rates in effect as of May 1, 2016, continued in effect for each county as the new, singular LIT rate for periods starting Jan. 1, 2017. In addition, if a county passed a LIT rate after July 1, 2016, but before Nov. 1, 2016, that rate was effective Oct. 1, 2016, or Jan. 1, 2017, depending on when the county passed an ordinance changing its LIT rate.

Effective July 1, 2016, the following rules apply to the effective date for a rate change based on the date of the county's passage of the appropriate ordinance:

1. If a county changes its LIT rate between Jan. 1 and Aug. 31 of a calendar year, the revised rate goes into effect on Oct. 1 of that calendar year.
2. If a county changes its LIT rate between Sept. 1 and Oct. 31 of a calendar year, the revised rate goes into effect on Jan. 1 of the next calendar year.
3. If a county changes its LIT rate between Nov. 1 and Dec. 31 of a calendar year, the revised rate goes into effect on Oct. 1 of the next calendar year.

If, under (1) and (3) above, a rate changes on Oct. 1 of a given year, a county taxpayer will be subject to tax at a rate equal to the sum of $\frac{3}{4}$ of the pre-Oct. 1 LIT rate and $\frac{1}{4}$ of the post-September 30 LIT rate for the year in which the rate changes. For the following year, a county taxpayer will be subject to LIT at the new rate.

Under CAGIT and COIT prior to their repeal, separate resident and nonresident rates were prescribed by law. There is no separate LIT rate for resident or nonresident taxpayers. The taxpayer pays the full rate of tax even if the taxpayer is a nonresident.

Local Income Tax Withheld

A copy of the state Federal Wage and Tax Statement, Form W-2, usually indicates the amount, if any, of LIT withheld. A separate line on the individual income tax return is provided to take credit for local taxes withheld.

Credit for Taxes Paid to Localities Outside of Indiana

A credit against county tax is available to taxpayers who earn income from sources outside Indiana and who are also subject to a local income tax in another state. The credit is the least of: (1) the amount of local income tax actually paid to the locality in the other state; (2) the amount of income taxed by the locality outside of Indiana multiplied by the Indiana local income tax rate to which the taxpayer is subject; or (3) the actual amount of county income tax due. Out-of-state local income taxes may not be claimed as a credit against Indiana state income taxes. For more details, consult Income Tax Information Bulletin #115, available at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/.

A copy of the tax return filed with the out-of-state locality must be attached to the Indiana return in order to substantiate the credit claimed. When no return is required by an out-of-state locality, a copy of the Form W-2 or another form (e.g., a K-1 showing tax withholdings) indicating the local tax withheld must be attached to the return.

Nonresidents of Indiana may not claim this credit against their Indiana county tax liability. If a taxpayer has income derived from more than one out-of-state locality, the credit shall be computed separately for each locality. On a joint return, the husband and/or wife should compute the credit separately. Applying the above limitations, any excess credit of one spouse cannot be used to reduce the county tax liability of the other spouse.

If you have any questions concerning this bulletin, contact the Tax Policy Division at taxpolicy@dor.in.gov.



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