

DEPARTMENT OF STATE REVENUE

Commissioner's Directive #51

May 2014

Effective Date: May 1, 2014

SUBJECT: Tax Withholding for Race Teams**REFERENCES:** [IC 5-1-17.5-42](#); [IC 6-3-2-3.2](#); [IC 6-3-1-12](#)

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SUMMARY

This directive provides guidance regarding the withholding requirements with respect to prize winnings and other payments for motorsports teams.

DEFINITIONS

"Prizes" shall mean any purse, prize, or other amounts earned for placement or participation in a race or portion thereof, provided that the race occurs in Indiana. For purposes of this directive, if money or other consideration is paid based on the participation in a series of races, the portion of the money or other consideration attributable to Indiana shall be equal to the number of races in which a driver or team participated in Indiana divided by the total number of races in which that driver or team participated in all jurisdictions.

"Bonus" shall mean:

- (1) a bonus earned as a result of participation in a racing event, such as a performance bonus or any other bonus; and
- (2) a bonus paid for signing a contract, unless all of the following conditions are met:
 - (i) The payment of the signing bonus is not conditional upon the signee participating in a racing event for the team or performing any subsequent services for the team.
 - (ii) The signing bonus is payable separately from the salary and any other compensation.
 - (iii) The signing bonus is nonrefundable.

"Total income" means the total compensation received during the taxable year for services rendered. The term includes salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a race team member for services rendered in that year. The term does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered to the race team.

"Indiana duty days" means the number of total duty days spent by a race team member within Indiana rendering a service for the race team in any manner during the taxable year, except travel days spent in Indiana that do not involve either a race, practice, qualification, training, testing, team meeting, promotional caravan, or other similar race team event.

"Total duty days" means all days during the taxable year that a race team member renders a service for the race team. The term includes:

- (1) race days, practice days, qualification days, training days, testing days, days spent at team meetings, days spent with a promotional caravan, and days served with the team in which the team competes or is scheduled to compete;
- (2) days spent conducting training and rehabilitation activities, but only if the service is conducted at the facilities of the race team; and
- (3) travel days that do not involve either a race, practice, qualification, training, testing, team meeting, promotional caravan, or other similar team event.

Total duty days for an individual who joins a race team during the season begin on the day the individual joins the team, and, for an individual who leaves a team, end on the day the individual leaves the team. When an individual changes teams during a taxable year, a separate duty day calculation must be made for the period the individual was with each team. Total duty days do not include those days for which a team member is not compensated and is not rendering a service for the team in any manner, including days when the team member has been suspended without pay and prohibited from performing any services for the team.

"Race team" includes a professional motorsports racing team that has services rendered by a race team member in Indiana or participated in a racing event at a qualified motorsports facility (as defined in [IC 5-1-17.5-14](#)).

"Race team member" includes employees or independent contractors who render services on behalf of the race team. The term includes but is not limited to drivers, pit crew members, mechanics, technicians, spotters, and crew chiefs.

WITHHOLDING REQUIREMENTS-PRIZE MONEY

For any entity paying prizes, whether a race operator, a race track, a race team, or any other person or entity, the entity shall withhold a portion of the prize money remitted to any person or entity residing outside Indiana. For an individual, trust, or estate, their residence shall be based on the criteria set forth under [IC 6-3-1-12](#). For a partnership, corporation, or any other entity, residency is determined by the commercial domicile of the partnership, corporation, or entity.

For each payment of prize money to a nonresident person or a nonresident S corporation, tax shall be withheld at the individual income tax rate. For 2014, this rate is 3.4 percent (3.4%).

For payments of prize money to a partnership, C corporation, or any other entity, tax shall be withheld at the corporate income tax rate in effect on January 1 of the year in which the payment is made. For 2014, this is 7.5 percent (7.5%).

If a payment of prize money previously was subject to withholding by one or more other entities (for instance, a racing circuit withholds for a race team, and then the race team further distributes the prize money to another racing team), the entity subject to withholding is entitled to claim a credit for the taxes previously withheld. However, the credit for such withholding is limited to the amount of withholding that the entity claiming the credit would have otherwise remitted. Any withholding for prize money shall be reported annually by the entity paying prize money subject to withholding. Each entity responsible for withholding shall establish a withholding account for purposes of reporting prize money. The entity shall report the withholdings on a Form WH-1.

If any entity responsible for withholding does not have an Indiana withholding account, it must open an account with the Indiana Department of Revenue. This can be done online through the Indiana Department of Revenue's INTax program, available online at www.intax.in.gov.

If an entity responsible for withholding already has an Indiana withholding account used for other non-prize money purposes, it must open a separate account with the Indiana Department of Revenue for purposes of filing and remitting withholding on prizes.

WITHHOLDING REQUIREMENT-COMPENSATION, SALARY, AND/OR BONUSES

Any payment of compensation, salary and/or bonuses by an employer or race team (hereinafter referred to as "employer") to a race team member shall have tax withheld on the Indiana portion of the income. The Indiana portion of the income shall be equal to:

Total income for the year (as defined above) times Indiana duty days divided by total duty days.

The amount to be withheld should be computed based on the instructions provided in Departmental Notice #1, available at <http://www.in.gov/dor/reference/files/dn01.pdf>. If the total income for the year cannot be readily determined at the time of the race, an entity paying income to a race team member shall determine the Indiana income subject to withholding by taking the total income paid to the race team member for the period(s) in which the race team member was performing services, multiplying that by the number of days working in Indiana during the period(s), then dividing by the number of days worked everywhere during the period(s).

Any tax withheld on behalf of Indiana shall be reported and remitted to the Indiana Department of Revenue on a

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monthly basis. Any tax withholding should be reported on Form WH-1 by the employer. If the employer files a separate Form WH-1 for each Indiana location, these taxes should be reported for any location corresponding to the location of the race. If an employer files a single Form WH-1 for all Indiana locations, the taxes should be reported on that Form WH-1.

If any income is reported on a federal Form W-2, that federal Form W-2 is sufficient for reporting the Indiana portion of the total income. If any income is not reported on a federal Form W-2, the employer should provide the team member with a Form WH-18. The WH-18 should report all Indiana income and the tax withheld on that income.

Each employer shall provide information to members sufficient to determine each team member's Indiana income and the portion attributable to activities during motorsports events. This form will be available online at the Indiana department of Revenue's website. This information shall include the team member's name, social security number, total compensation, Indiana duty days, and total duty days. Substantiation of duty days must be provided upon the request of the Indiana Department of Revenue.

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Commissioner

Posted: 05/28/2014 by Legislative Services Agency
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