

Letter of Findings: 01-20140565
Indiana Income Tax
For the Tax Year 2011

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 This document is effective as of its date of publication and remains in effect until the date it is superseded by the publication of another document in the Indiana Register.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

An individual did not lose his Indiana domicile for 2011, since the individual did not establish a new domicile in another state for 2011.

ISSUE

I. Indiana Individual Income Tax - Residency.

Authority: IC § 6-8.1-5-1; IC § 6-3-1-12; IC § 6-3-1-13; [45 IAC 3.1-1-21](#); [45 IAC 3.1-1-22](#).

Taxpayer protests the Department's proposed assessment of Indiana income tax.

STATEMENT OF FACTS

The Indiana Department of Revenue ("Department") issued a proposed assessment for Indiana income tax, penalty, and interest. Taxpayer, an individual, filed a protest of the Department's assessment. An administrative telephone hearing was held; this Letter of Finding results. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Residency.

DISCUSSION

At the outset, the Department notes that the burden of proving a proposed assessment wrong rests with the person against whom the proposed assessment is made, as provided by IC § 6-8.1-5-1(c).

Taxpayer in his protest letter states that he had filed an Indiana individual income tax return "which produced a result of \$0 owed to [the] State of Indiana." Taxpayer states that he has not been a resident of Indiana since November of 2010. Taxpayer explains his facts thusly:

I was hired by [Company L] (headquartered in [another State]) during December of 2010. I relocated to multiple satellite offices within the company during the last 4 years. I was told by the IN Dept of Revenue agent when I called . . . that the reason why I need to pay taxes on my income is because I hold an Indiana Drivers [sic] license. I did not change my driver's license due to me relocating to different states in very short periods of time. Anyhow, driver's license does not dictate residency. I am a resident of the state I work and live, not what state of driver license I still hold. I have not been to the State of Indiana in the last 4 years, nor do I have any income derived from Indiana.

Taxpayer provided a letter from his employer, which states that Taxpayer was hired by them in December 2010. The letter also states that in June 2011, Taxpayer entered their training program "as a Trainee" for the company's Ohio location. The letter further states that the "program was two years in length with rotations every six months, depending on the needs of the business and the acceleration of the trainee." Per the letter, Taxpayer's housing was paid for by the company and that "[a]t no time during [Taxpayer's] training did he reside in the state of Indiana." Thus Taxpayer lived in Ohio from December 2010 to June 2011, then in another state on the east coast for several months, and then back to Ohio for the remainder of 2011. Taxpayer's housing, during this program, was paid for by his employer.

At the hearing Taxpayer stated he had an Indiana driver's license in 2011, and that he did not get a new license

until 2014. He has also stated his vehicle had an Indiana title until 2014. Taxpayer stated he did not vote in 2011 or after. Taxpayer also noted that he did not take the homestead credit (the Department notes that since Taxpayer did not own a home in Indiana the homestead credit is inapplicable to him).

Turning to the relevant law, IC § 6-3-1-12 states:

The term "resident" includes (a) any individual who was domiciled in this state during the taxable year, or (b) any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state, or (c) any estate of a deceased person defined in (a) or (b), or (d) any trust which has a situs within this state.

And IC § 6-3-1-13 states, "The term 'nonresident' means any person who is not a resident of Indiana." [45 IAC 3.1-1-21](#) states:

An Indiana resident is:

- (a) Any individual who was domiciled in Indiana during the taxable year, or
 - (b) Any individual who maintains a permanent place of residence in this state and spends more than 183 days of the taxable year within this state; or
 - (c) Any estate of a deceased person defined in (a) or (b) [subsections (a) or (b) of this section], or
 - (d) Any trust which has a situs within this state.
- (Emphasis added).

Additionally, [45 IAC 3.1-1-22](#) states:

For the purposes of this Act, a person has only one domicile at a given time even though that person maintains more than one residence at that time. Once a domicile has been established, it remains until the conditions necessary for a change of domicile occur.

In order to establish a new domicile, the person must be physically present at a place, and must have the simultaneous intent of establishing a home at that place. It is not necessary that the person intend to remain there until death; however, if the person, at the time of moving to the new location, has definite plans to leave that new location, then no new domicile has been established.

The determination of a person's intent in relocating is necessarily a subjective determination. There is no one set of standards that will accurately indicate the person's intent in every relocation. The determination must be made on the facts present in each individual case. Relevant facts in determining whether a new domicile has been established include, but are not limited to:

- (1) Purchasing or renting residential property
 - (2) Registering to vote
 - (3) Seeking elective office
 - (4) Filing a resident state income tax return or complying with the homestead laws of a state
 - (5) Receiving public assistance
 - (6) Titling and registering a motor vehicle
 - (7) Preparing a new last will and testament which includes the state of domicile.
- (Emphasis added).

During the telephone hearing, Taxpayer stated that he lived in Indiana from 1997 to December 2010. Thus, as [45 IAC 3.1-1-22](#) states, "Once a domicile has been established, it remains until the conditions necessary for a change of domicile occur." Taxpayer had an Indiana domicile as of December 2010. The question before the Department is whether or not Taxpayer met the conditions for a change of domicile—i.e., did Taxpayer replace his Indiana domicile by establishing a new domicile in another state for 2011?

The Department finds that Taxpayer had an Indiana domicile in 2011. Taxpayer registered his vehicle in Indiana for 2011 (and per the Taxpayer, for the next 3 years). Likewise, Taxpayer had an Indiana driver's license in 2011. At the hearing, Taxpayer stated that since he was moving around frequently he kept his Indiana driver's license and vehicle title. The Department also notes that Taxpayer lived in two different states in 2011—thus Taxpayer did not establish a new domicile since the training program involved rotations every six months (the letter from the employer notes Taxpayer's frequent relocations to learn the business and that his housing was paid for by the employer). The Department finds that Taxpayer did not lose his Indiana domicile for 2011, since Taxpayer did not establish a new domicile for 2011.

Taxpayer was also assessed penalty and interest. Taxpayer did not develop an argument regarding these issues, thus Taxpayer's protest is denied on these issues too.

FINDING

Taxpayer's protest is respectfully denied.

Posted: 04/29/2015 by Legislative Services Agency

An [html](#) version of this document.