
DEPARTMENT OF STATE REVENUE**Revenue Ruling # 2013-04 IT
March 31, 2015**

NOTICE: Under [IC 4-22-7-7](#), this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the department's official position concerning a specific issue.

ISSUE

Adjusted Gross Income Tax-Withholding

A company ("Taxpayer") is seeking an opinion as to whether it is required to withhold on certain entities.

Authority: [IC 6-3-1-12](#); [IC 6-3-4-12](#); [45 IAC 3.1-1-12](#).

STATEMENT OF FACTS

Taxpayer provides the following facts regarding its request for a revenue ruling. Taxpayer is a limited liability company conducting business in Indiana. Several of Taxpayer's owners are individual retirement accounts (IRAs). The individuals owning the IRAs live in Indiana and in other states. The IRAs have custodians (e.g., banks or brokerages) both in and out of Indiana, including some instances where a custodian has a financial center outside Indiana but the customer interacts through an Indiana branch.

Under federal law, Taxpayer's activities result in unrelated business income subject to tax for the IRAs. By extension, the IRAs are subject to Indiana income tax.

DISCUSSION

Taxpayer requests that the department rule on the residency of the IRAs for Indiana income tax purposes. In particular, Taxpayer requests whether the presence of branches of Indiana may create residency for custodians, assuming that the custodian's location(s) governs residency for the IRAs.

With regard to the residency of trusts, [IC 6-3-1-12\(d\)](#) provides that a resident includes "any trust which has a situs within this state." Further, [45 IAC 3.1-1-12](#) provides that "[t]he residence of an estate or trust is the place where it is administered." However, the term "administered" is undefined.

In the case of the IRAs, the IRAs are largely directed by the customers. Even though a custodian may charge fees for transactions or for account maintenance, the day-to-day management of the IRAs—buying or selling securities or other investments, requesting distributions, and so forth—rest with the account holder. Accordingly, for purposes of determining the residency of the IRAs—and, by extension, any withholding requirement under [IC 6-3-4-12](#)—the residency of the IRA account holder shall be considered the residency of the IRA. This is true regardless of whether the IRA custodian has a presence in Indiana or whether a custodian's Indiana location is used for purposes of transacting IRA business. In the case of an IRA with multiple account holders, the residency of each account holder shall be considered the residency of the IRA in proportion with their respective beneficial interests. Lastly, if the location of the IRA account holder is unknown, it shall be assumed that the account holder—and, by extension, the IRA—is not an Indiana resident and withholding shall be required.

RULING

The residency of an individual retirement account for Indiana income tax purposes and for Indiana withholding tax purposes is the residency of the account holder in proportion with the beneficial interests held in the IRA. For an IRA where the beneficiary's residency is unknown, the residency shall be assumed to not be Indiana and withholding shall be required.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the

taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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