

Supplemental Letter of Findings: 01-20160040
Indiana Individual Income Tax
For The Tax Year 2012

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 This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register.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 Supplemental Letter of Findings.

HOLDING

For 2012, Individuals were not Indiana residents because they provided sufficient documentation to show that they did not spend more than 183 days in Indiana.

ISSUE

I. Indiana Individual Income Tax - Residency.

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

Taxpayers protest the Department's proposed assessment for the 2012 tax year.

STATEMENT OF FACTS

Taxpayers are a married couple with a current Florida address. Taxpayers did not file a 2012 Indiana income tax return. The Indiana Department of Revenue ("Department") determined that for the tax year 2012, Taxpayers were Indiana residents, that Taxpayers failed to file their Indiana income tax return, and that Indiana income taxes were due for 2012.

Taxpayers timely protested the assessments. An administrative hearing was held and the Letter of Findings 01-20160040 (August 1, 2016) ("LOF") denied Taxpayers' protest. The LOF determined that Taxpayers have changed their domicile to Florida, but concluded that Taxpayers were Indiana residents because they maintained a permanent place of residence in Indiana and spent more than 183 days in Indiana during 2012.

Taxpayers disagreed, requesting a rehearing. Based on the new information submitted, a rehearing was granted. This Supplemental Letter of Findings ("SLOF") results.

I. Indiana Individual Income Tax - Residency.

DISCUSSION

The LOF determined that Taxpayers were Indiana residents and were required to file a 2012 Indiana full-year return, IT-40 form, because they maintained a permanent place of residence in Indiana and spent more than 183 days in Indiana during 2012 pursuant to IC § 6-3-1-12(b).

Taxpayers disagreed, claiming that they were not Indiana residents because they spent less than 183 days in Indiana. Thus, Taxpayers asserted that they were not required to file the 2012 Indiana income tax return and the proposed assessment was not correct.

This SLOF incorporates the relevant undisputed facts and legal analysis mentioned in the LOF by reference and will not be repeated here. Specifically, for the purposes of this SLOF, the issue is a matter of fact—whether, for the year 2012, Taxpayers provided sufficient documentation to show that they were not Indiana residents. That is, whether they met their burden to demonstrate that although they maintained a permanent place of residence in Indiana they did not spend more than 183 days in Indiana for 2012. IC § 6-8.1-5-1(c).

Upon review, the Department is prepared to agree that for the year 2012, Taxpayers met their burden demonstrating they did not spend more than 183 days in Indiana and thus were not Indiana residents for 2012. IC

§ 6-3-1-12; see also [45 IAC 3.1-1-21](#).

Finally, it should be noted that Taxpayers, who continue to maintain a permanent place of residence in Indiana, are on notice that for the purposes of determining Indiana residency, each year stands alone. Going forward, if similar circumstances arise again for different tax years, Taxpayers will be required to accordingly document their potential residency issues.

FINDING

Taxpayers' protest is sustained.

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