

DEPARTMENT OF STATE REVENUE

01-20181853R.MOD

**Memorandum of Decision: 01-20181853
Individual Income Tax
For Tax Years 2014, 2015, and 2016**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this document.

HOLDING

Individual residing out-of-state was able to demonstrate that he did not have taxable Indiana source income and was therefore entitled to a refund of withholding taxes erroneously remitted to the Department.

ISSUE

I. Individual Income Tax.

Authority: IC § 6-3-2-1; IC § 6-3-1-12; IC § 6-3-1-13; [45 IAC 3.1-1-21](#).

Taxpayer protests the denial of refund of individual income taxes.

STATEMENT OF FACTS

Taxpayer is an individual residing in the state of Texas. Taxpayer is employed by a company that is based in Indiana, but he performed work for the company in Texas. Taxpayer filed Indiana amended individual income tax returns for tax years 2014, 2015, and 2016, requesting refunds totaling \$16,974.00. Taxpayer requested the refunds on the basis that he was a Texas resident and performed all of his work in Texas; however, his employer withheld and remitted withholding taxes to Indiana. The Indiana Department of Revenue ("Department") denied Taxpayer's refund claims, stating "[w]e must deny [the refunds] because the income you earned is from an Indiana source, regardless of where you live."

Taxpayer protested the refund denial and provided additional documentation. Taxpayer requested a final determination without a hearing, and this memorandum of decision results. Further facts will be provided below as necessary.

I. Individual Income Tax.

DISCUSSION

Taxpayer protests the refund denials for tax years 2014, 2015, and 2016 ("Tax Years at Issue"). The issue is whether Taxpayer has shown that he does not have taxable Indiana source income.

Indiana imposes a tax "upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). For income tax purposes, "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" IC § 6-3-1-12; see also [45 IAC 3.1-1-21](#). A nonresident is "any person who is not a resident of Indiana." IC § 6-3-1-13.

Whether Taxpayer is a nonresident is not at issue in this protest. Taxpayer is a resident of Texas. The Department conducted a W-2 search which indicated that Taxpayer received Indiana wage income in the Tax Years at Issue. Taxpayer provided copies of corrected W-2 forms (W-2C) showing that Taxpayer did not receive Indiana wage income for Tax Years at Issue. Taxpayer has met his burden to prove that he was not liable for Indiana income tax, and should therefore receive a refund of withholding taxes remitted to Indiana in error. Taxpayer's protest of the refund denial is sustained.

FINDING

Taxpayer's protest is sustained.

March 26, 2019

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