

DEPARTMENT OF STATE REVENUE

Information Bulletin #88
Income Tax
December 2019
(Replaces Bulletin #88 dated December 2017)
Effective Date: Upon Publication

SUBJECT: Taxation of Nonresident Professional Athlete Team Members

REFERENCES: [IC 6-3-2-2](#); [IC 6-3-2-2.7](#); [IC 6-3-4-1](#); [IC 6-3.6-2-2](#); [IC 6-3.6-2-13](#)

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUMMARY OF CHANGES

Aside from technical, nonsubstantive changes, the bulletin refers now to two new Income Tax Information Bulletins (88A & 88B) that touch upon similar income and withholding issues involving athletes and entertainers.

I. INTRODUCTION

Nonresident professional athletes playing or on contract with a team will apportion their income to Indiana based on duty days performed in Indiana compared to total duty days in a taxable year.

II. APPLICABLE TEAMS AND TEAM PLAYERS

The provision for apportioning the income of nonresident athletes applies to members of a professional baseball, basketball, football, hockey, or soccer team that played games or had services rendered by a team member in Indiana.

The provision applies to employees who are active players, players on a disabled list, and other individuals required to travel with and perform services on behalf of the team on a regular basis. This includes coaches, managers, and trainers.

The provision does not apply to members of race teams or to other entertainers such as actors or musicians. For information related to the taxation and withholding for race team members, please refer to the department's Income Tax Information Bulletin #88B; for information related to the taxation and withholding for other nonresident athletes and entertainers, please refer to Income Tax Information Bulletin #88A. Both are available online at www.in.gov/dor/3650.htm.

III. INCOME THAT IS SUBJECT TO APPORTIONMENT

"Income" is defined to mean the total compensation received during the taxable year for services rendered from the beginning of official preseason training through the last game in which the team competes as well as income received from participation in instructional leagues, in an all-star or a pro-bowl game, or with a promotional caravan.

The term includes salaries, wages, bonuses (but not including signing bonuses; see below), and any other type of compensation paid to a team member for services rendered in that year. The term does not include strike benefits, severance pay, termination pay, contract or option year buyout payments, expansion or relocation benefits, or any other payments not related to services rendered to the team.

Bonuses do not include a signing bonus paid to a person. To qualify as a signing bonus, all the following conditions must be met:

- The payment of the signing bonus is not conditional upon the signer playing any games for the team, performing any subsequent services for the team, or making the team;
- The signing bonus is payable separately from the salary and any other compensation; and

- The signing bonus is not refundable.

IV. DEFINITION OF DUTY DAYS

"Total duty days" means all days during the taxable year that a team member renders a service for the team, beginning with the team's official preseason training period through the last game in which the team competes or is scheduled to compete. The term includes duty days on which a team member renders a service for the team on a date that does not fall within this period. Duty days include all of the following:

- Game days, practice days, days spent at team meetings, days spent with a promotional caravan and at preseason training camps, and days served with the team through all postseason games in which the team competes or is scheduled to compete;
- Days spent conducting training and rehabilitation activities, but only if the service is conducted at the facilities of the team;
- Travel days that do not involve a game, practice, team meeting, promotional caravan, or other similar team event;
- Days spent participating in instructional leagues and all-star or pro-bowl games; and
- Days for which a team member is on the disabled list.

"Indiana duty days" means the number of total duty days spent by a team member within Indiana rendering a service for the team in any manner during the taxable year, except:

- Travel days spent in Indiana that do not involve a game, practice, team meeting, promotional caravan, or other similar team event; and
- Those days spent in Indiana for which a team member is on the disabled list.

V. PARTIAL-YEAR TEAM MEMBER

Total duty days for an individual joining a 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 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.

VI. CALCULATION OF INDIANA INCOME

For purposes of calculating Indiana income, it is the individual's total income during the taxable year multiplied by the following fraction:

- The numerator of the fraction is the individual's Indiana duty days for the taxable year; and
- The denominator of the fraction is the individual's total duty days for the taxable year.

Example: A nonresident team member plays one game in Indiana with a practice day before the game, (2 Indiana duty days). The total duty days during the year totaled 150. The fraction will be 2 over 150, or 1.33%. This percentage is then multiplied by the total income to arrive at the Indiana income.

This calculation is presumed to represent an equitable apportionment of the team member's compensation. If the department or the team member demonstrates this calculation is not an equitable apportionment of the team member's income, then either may use a different formula that provides an equitable apportionment. The team member's alternative method must be thoroughly explained on the individual's tax return and approved in advance by the department.

VII. LOCAL INCOME TAX

Effective January 1, 2018, certain nonresident individual team members will be subject to local income tax. For each county, the Indiana income for services rendered as a team member subject to local income tax for a county will be determined in a manner consistent with Section V above. If a member renders services in Indiana in one county during a year, the entire Indiana income for services as a team member will be subject to tax in that county. If a member performs services in more than one county, then the duty days in each county must be determined and the tax for each county determined separately.

This provision only applies to individuals who are nonresidents of Indiana as of January 1, 2018, **and** who do not have the individual's principal place of business or employment in Indiana as of January 1, 2018. Individual team members who are either residents of an Indiana county as of January 1 of a taxable year or have the individual's principal place of business or employment in an Indiana county as of January 1 of a taxable year are subject to local income tax on their income based on the general provisions of [IC 6-3.6](#).

VIII. SIMPLIFIED REPORTING FOR TEAMS NOT LOCATED IN INDIANA

The department may establish simplified reporting for members of a team if the team is not based in Indiana. The department will establish a withholding system that requires the team to withhold adjusted gross income tax and local income tax for each team member and to remit the withheld taxes to Indiana on an annual basis. The department may require each team to submit information for each team member regarding total income, Indiana income subject to tax under this section, and the amount of tax withheld. Remittance of the withholding tax and submission of the required information satisfies the team member's tax liability and return filing responsibilities. A team that is required to withhold and remit shall provide all participating team members with a Form W-2 evidencing the amount of tax withheld and remitted to Indiana.

Even though a team is required to withhold and remit, a team member may file an individual income tax return to claim a refund if the amount remitted exceeds the amount otherwise owed using the methodology described previously. However, if a team member files an individual income tax return to claim a refund, the team member is required to notify the team member's state of residence of the filing by attaching a copy of the Indiana return to the taxpayer's resident income tax return.

A team member reporting under the simplified method may not use any deduction, exemption, or exclusion to reduce the member's Indiana adjusted gross income.

NOTE: For a team member to participate in the simplified reporting, a team member's compensation from the team must be the only source of income attributable to Indiana.

If a team member leaves the team during the taxable year, the team remains responsible for remitting the appropriate tax on behalf of that team member.

IX. RECIPROCITY AGREEMENTS

Reciprocity agreements that are in place with other states will be honored with nonresident team members if they play for a nonresident team or live in a reciprocal state and play for an Indiana team. However, reciprocity agreements between states only apply to state-level income taxes. Local income taxes are not subject to state-level reciprocity agreements.

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