

Memorandum of Decision: 01-20211019
Individual Income Tax
for the Tax Year 2020

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 Memorandum of Decision.

HOLDING

Individual provided sufficient documentation to show that he was not an Indiana resident and that he is entitled to a refund of Indiana income tax.

ISSUE

I. Individual Income Tax - Residency.

Authority: IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-3-1-3.5; IC § 6-3-1-12; IC § 6-3-1-13; [45 IAC 3.1-1-22](#); *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); [45 IAC 3.1-1-21](#).

Taxpayer protests the assessment of individual income tax.

STATEMENT OF FACTS

Taxpayer is a federal employee working for an employer headquartered in Indiana. Taxpayer filed a refund claim for individual income tax that he paid to Indiana via employer withholding on his wages via employer withholding on his wages. The Department denied the claim for refund and Taxpayer protested that denial. Taxpayer waived his right to an administrative hearing. This Memorandum of Decision is written based on the documentation and analysis Taxpayer provided with his protest, as well as the Department's records. Further facts will be provided as necessary.

I. Individual Income Tax - Residency.

DISCUSSION

Taxpayer's employer is headquartered in Indiana. Taxpayer lives in North Carolina but came to Indiana for his job's onboarding process in 2019. Taxpayer noticed that his W-2 incorrectly stated that he had Indiana income for the 2019 and 2020 tax years. His employer corrected the W-2 form for the 2019 tax year. Additionally, his employer changed his residency to North Carolina; however, the employer did not correct the 2020 W-2.

As a threshold issue, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation of another party.'" *Dept. of State Revenue v Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

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). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

For Indiana income tax purposes, 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](#). Nonresident is "any person who is not a resident of Indiana." IC § 6-3-1-13.

Domicile is defined by [45 IAC 3.1-1-22](#), which provides:

"Domicile" Defined. 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).*

Taxpayer provided the corrected W-2 from the 2019 tax year, and additional documentation that showed he was not in Indiana for any part of the 2020 taxable year. He was able to prove that he was not domiciled in Indiana, as provided in [45 IAC 3.1-1-22](#), and had no connection to Indiana except for the short onboarding process in 2019. Taxpayer provided sufficient evidence under IC § 6-3-1-12, to show that he was not a resident of Indiana in the 2020 tax year, and that his revised W-2 was correct. Therefore, Taxpayer has established that he should be refunded the Indiana state income tax that was incorrectly withheld for 2019 and 2020.

FINDING

Taxpayer's protest is sustained.

July 26, 2022

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