

DEPARTMENT OF STATE REVENUE

Information Bulletin #1
Income Tax
September 2023
Effective Date: January 1, 2022 (retroactive)
(Replaces Bulletin #1, dated August 2015)

SUBJECT: Fiduciary Income Tax Return

REFERENCES: [IC 6-3-1-7](#); [IC 6-3-2-2](#); [IC 6-3-2.1](#); [IC 6-3-4-1](#); [IC 6-3-4-2](#); [IC 6-3-4-15](#); [IC 6-3-4-16.7](#); [IC 6-8.1-10](#)

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SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this bulletin has been changed to include an introduction, to include information on the pass through entity tax (PTET), to remove a paragraph detailing a repealed requirement to add back lump sum distribution amounts, to add information on electronic filing of K-1s, and to fix addresses and hyperlinks.

INTRODUCTION

The purpose of this bulletin is to discuss the income tax filing requirements for fiduciaries, meaning any guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any individual, trust, guardian or estate.

REQUIREMENT FOR FILING

Resident estates and trusts having gross income of \$600 or more, federal taxable income, or no federal taxable income due to distributions during the tax year must file Form IT-41, Indiana Fiduciary Income Tax Return.

Nonresident estates and trusts having gross income of \$600 or more or federal taxable income for the tax year from within the state of Indiana must file Form IT-41. Federal taxable income from Indiana includes all allocable income from Indiana partnerships, LLCs, or an S corporation.

For taxable years ending after December 31, 2021, an estate or trust required to provide ten or more schedules K-1 of form IT-41 to beneficiaries must file all such reports in an electronic format. If the department receives a form IT-41 with more than 50 schedules K-1 in a format other than through modernized e-File platform (MeF), the department may provide written notification to the estate or trust that the department will consider the schedules to not be filed until the schedules have been filed through MeF. However, if an estate is passing through the pass through entity tax (PTET) for taxable year 2023, that return will be required to be filed on paper. Any penalty for excess paper K-1s will be waived if Schedule PTET is included with the IT-41.

A bank with common trust funds filing Form 1065 for federal income tax purposes must file Form IT-65, Indiana Partnership Income Tax Return. The bank must also comply with the provisions of Internal Revenue Code Regulation 1.6032-1.

A bankruptcy estate of an individual must file Form IT-41 with an enclosed copy of the individual's income tax return. The fiduciary return will report only the amount of tax computed on the individual income tax return.

A guardian of a ward's estate does not file the fiduciary income tax return but must file an individual income tax return on behalf of the ward.

Charitable remainder trusts and charitable lead trusts filing federal Form 5227 must file Form IT-41 and enclose a copy of Form 5227.

Unless required for purposes of identification, a grantor should not file the fiduciary income tax return. However, any income taxable to the grantor must be reported on a separate information sheet and enclosed with the fiduciary income tax return. The grantor should report such income and any allowable deductions on the individual

DETERMINATION OF TAXABLE INCOME

"Adjusted gross income" for estates and trusts means "taxable income" as defined in Section 641(b) of the Internal Revenue Code, reduced by income that is exempt from state taxation by federal statute or by the United States Constitution.

In addition, estates and trusts are required to make various modifications to their federal adjusted gross income as provided under [IC 6-3-1-3.5](#)(f). For the estate or trust, these modifications apply only to the extent the estate or trust has not distributed income to its beneficiaries.

For purposes of filing the Indiana fiduciary income tax return, estates and trusts are classified as either resident or nonresident. The residence of an estate or a trust is the place where it is administered.

Resident estates and trusts are taxable on all income exceeding \$600, regardless of where it is earned. Thus, resident fiduciaries must report all income wherever derived.

Nonresident estates and trusts are taxable in Indiana on all income exceeding \$600 derived from Indiana sources. Income derived from sources within and without Indiana shall be determined under [IC 6-3-2-2](#). Nonresident estates and trusts must adjust federal taxable income (or loss) to reflect taxable income allocable to Indiana.

DEDUCTIONS ALLOCABLE TO TAX-EXEMPT INCOME

Deductions allocable to tax-exempt income must be used only against tax-exempt income. Any excess of such allocated deductions cannot be used to offset taxable income. Therefore, fiduciaries must "add back" administration expenses and all deductions attributable to tax-exempt income in arriving at Indiana taxable income.

CREDITS AGAINST TAX

Estates and trusts may claim, as a credit against adjusted gross income tax, taxes paid to other states on income subject to the Indiana tax. Other credits are available and are similar to credits available to individuals. Income Tax Information Bulletin #59 has more detailed information concerning the availability of credits. It is available online at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/

The beneficiaries of an estate or trust are qualified to receive PTET credit. If an estate or trust credits a beneficiary with PTET, the withholding required for that beneficiary shall be reduced by the tax credited to the beneficiary under [IC 6-3-2.1](#). However, the tax required to be withheld cannot be reduced to less than \$0. Further, the PTET credit is limited to the credit passed through from an entity that makes an election. In other words, if a trust owns an interest in a partnership, the beneficiaries can only claim the credit of PTET paid by the partnership and only to the extent the trust passes through the PTET. Please refer to Income Tax Information Bulletin #72B for further information related to PTET, available at the link above.

NONRESIDENT BENEFICIARIES

A nonresident beneficiary of a trust or an estate must be included in the composite adjusted gross income tax return filed by the trust or estate if the fiduciary distributes or reports income subject to Indiana income tax to the beneficiary. The distributed income retains its character from the trust or estate. Income that is distributed to a beneficiary of a trust or an estate is reported by the beneficiary. Income is apportioned between Indiana and other states using the relevant apportionment formula.

COMPOSITE RETURN REPORTING REQUIREMENTS

A trust or estate distributing or reporting income to a nonresident beneficiary is required to file a composite return and pay tax for all nonresident beneficiaries even if the beneficiary has other Indiana source income. Items to be reported on the composite return include any income with a nexus to Indiana and subject to adjusted gross income tax such as farm income; business income; rents and royalties from Indiana real estate; and other income such as non-investment income reported on K-1s from an Indiana partnership, LLC, or S corporation. Reportable income does not include investment income, including interest; dividends; capital gains; distributions of income in respect of a decedent such as from annuities, pensions, or retirement funds; investment income reported on K-1s from a partnership, an LLC, or an S corporation; rents and royalties from out-of-state real property; distributions of corpus; or any other income not subject to adjusted gross income tax.

An Indiana fiduciary administering a trust or an estate that is subject to the laws of another state is not subject to the composite filing requirements to the extent that the distributions to nonresidents consist of income from

out-of-state sources. Distributions from annuities or pension and profit-sharing trusts with Indiana assets are not subject to withholding because the pension itself is the source of the income and the income is generally taxable by the state in which the distributee resides.

The composite filing provisions apply only to distributions to nonresident beneficiaries. The beneficiary's residency should be determined at the time the beneficiary acquires a right to the distribution. Part-year residents and nonresidents may take credit on their annual adjusted gross income tax returns for any tax withheld.

Fiduciaries must withhold adjusted gross income tax at the rate in effect for a particular taxable year. Any deficiency in taxes withheld and remitted to the state will cause the trust or estate to become liable for the penalties and interest imposed by [IC 6-8.1-10](#). If not otherwise paid, the trust or estate also may be liable for the tax deficiency. The department may, at its option, require the withholding agent to post a bond to ensure payment of the tax.

The withholding requirements imposed on trusts and estates by [IC 6-3-4-15](#) do not relieve these entities from which tax was withheld from filing their own annual income tax returns. Also, the withholding requirements do not relieve a nonresident beneficiary from filing an individual income tax return, unless the beneficiary has no Indiana-source income other than income from pass through entities. The nonresident beneficiary will be liable to the department for any adjusted gross income tax the fiduciary has failed to withhold.

USE TAX

The purchase of all tangible personal property to be used by the fiduciary is subject to either the sales or the use tax. Generally, the sales tax should be paid at the time of purchase. However, if the seller is an out-of-state merchant or if, for any other reason, the sales tax is not paid at the time of purchase, the buyer is liable for payment of the use tax at the same rate as the sales tax.

ESTIMATED PAYMENTS

Indiana does not require trusts and estates to make estimated payments. Fiduciaries electing to make estimated payments must use Form IT-41ES, Fiduciary Estimated Tax and Extension Payment Voucher.

EXTENSIONS

If an estate or a trust is unable to complete the return by the due date, the fiduciary may request an extension of time to file Form IT-41. To obtain an extension of time to file Form IT-41, the fiduciary must file either a copy of the approved request for extension of time to file the federal fiduciary return (Form 7004) or Form IT-9, Indiana Application for Extension. The fiduciary must pay at least 90% of the final Indiana tax liability by the due date of the return. The payment must be made with a completed Form IT-41ES. The due date for payment of tax and filing a composite return is the same extended due date for the filing of the annual return of the estate or trust.

TAXABLE YEAR DEFINED

The "taxable year" is the taxable year of the taxpayer as shown on Form 1041, U.S. Fiduciary Income Tax Return.

DUE DATES AND PERSONS REQUIRED TO FILE RETURNS

Returns of estates and trusts shall be filed on or before the 15th day of the 4th month following the close of the taxable year or on or before the extended due date if the taxpayer has requested and received an extension of time for filing such return. The fiduciary (executor or trustee) shall file the return of the estate or trust. The fiduciary must enclose a copy of Federal Form K-1 for each beneficiary.

MAILING ADDRESS

Fiduciary income tax returns can be filed through the department's online e-services portal, INTIME, which can be accessed at intime.dor.in.gov. Returns can also be mailed to the following address:

Indiana Department of Revenue
Fiduciary Section
P.O. Box 6079
Indianapolis, IN 46206-6079

Robert J. Grennes, Jr.

Commissioner

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