



Indiana Department of Revenue

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Income Tax Information Bulletin #32

Subject: General Information on Local Income Taxes

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References: IC 6-3-2-27.5; IC 6-3.6

Replaces Bulletin #32, dated January 2024

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Summary of Changes

Apart from technical, nonsubstantive changes, this bulletin has been revised to provide additional information regarding the income tax exemption for nonresident employees who work in Indiana for 30 or fewer days per year.

Introduction

In 1973, the Indiana General Assembly enacted legislation that provided each county the option of adopting a County Adjusted Gross Income Tax (CAGIT). Legislation was enacted in 1984 that provided each county the option of adopting an alternative county income tax, known as the County Option Income Tax (COIT). A third income tax, enacted in 1987, known as the County Economic Development Income Tax (CEDIT), could stand alone or be supplementary to the first two.

CAGIT was enacted to provide the adopting counties with additional funds, to be used in part for property tax relief. COIT was enacted to provide counties with additional funds, part of which are used to: (1) replace the amount, if any, of the property tax revenue lost due to allowing an increased homestead credit within the county, and (2) make distributions of distributive shares to the civil taxing units of a county. CEDIT was enacted to allow counties to raise funds for local economic development projects.

However, in 2015, the Indiana General Assembly enacted legislation that replaced the CAGIT, COIT, and CEDIT with a single Local Income Tax (LIT), consolidating the taxes and various purposes of

the taxes into one tax type and one set of statutes. LITs became effective beginning with the 2017 tax year.

County of Residence and County of Work

The taxpayer's county of residence is determined as of Jan. 1 each year. For purposes of county tax, an individual's county of residence is determined by the county where the taxpayer maintains their primary home.

The taxpayer's county of principal business or employment is also determined as of January 1 each year. An individual's county of principal business or employment is that county where the taxpayer receives the greatest percentage of their gross income from salaries, wages, commissions, fees or other income of this type. If an individual is self-employed, the county of principal business or employment is that county where the individual's principal place of business is located. If an individual has two or more sources of income from two or more counties, the principal source will be evidenced by the percent of income received from each county and then by the percent of time spent in each county.

Change in County of Residence or County of Work Within the Taxable Year

The county of residence and county of principal business or employment determined as of Jan. 1 each year are fixed as of that date for local income tax purposes for the entire tax year. Any change in an individual's county of residence or county of principal business or employment during the year will not affect the county for which they are liable for local income tax. Form WH-4 establishes, for withholding purposes, the taxpayer's county of residence or county of principal business or employment. If an individual moves or changes their place of employment or business during the year, a new WH-4 must be completed. Completion of a new WH-4 will serve only to establish the county of residence and county of principal business or employment for the ensuing year.

Income Subject to Local Income Tax

At this time, all counties in Indiana have enacted a LIT. Residents of an Indiana county are subject to that county's local income tax at the tax rate imposed by that county on their entire adjusted gross income. The adjusted gross income for LIT purposes will be the Indiana adjusted gross income.

If an individual resides outside the state of Indiana, but the individual's principal place of business or employment is in an Indiana adopting county, the adjusted gross income derived from the Indiana adopting county is subject to county tax at the same rate as resident taxpayers. Reciprocal agreements between the state of Indiana and other states do not apply to the taxpayer's liability for county tax. In addition to compensation or self-employment income, an individual is subject to LIT on any other income derived from the county of principal business or employment. This

includes business profits and losses from ownership of partnerships and S corporations, sales or exchanges of property from the county of principal place of business or employment, and any other income derived from the county of principal business or employment.

The only deductions allowed from principal business or employment income are those that directly apply to the production of income from one's principal place of business or employment. They do not include Indiana deductions that are not related to the production of income except to the extent reflected in the net income of a business such as a sole proprietorship, partnership, or S corporation.

The following deductions are considered directly related to the production of principal business or employment income:

- Ordinary and necessary business expenses attributable to the income from a county taxpayer's principal place of business
- Reimbursed employee business expenses to the extent that they are deductible in computing Indiana adjusted gross income and that are attributable to the income from a county taxpayer's principal business or employment
- Payments to self-employed retirement plans and an IRA attributable to income from a county taxpayer's principal business or employment, to the extent such payments are deductible in computing Indiana adjusted gross income, and are deductible in arriving at the county adjusted gross income subject to tax
- Certain business expenses performing artists and fee-based government officials
- One-half of self-employment tax
- SEP, SIMPLE and qualified plans
- Self-employed health insurance deduction.

For 2023 and earlier, if a nonresident individual reports income only from their primary employment, as opposed to secondary or part-time employment, the reporting by the individual of the income from only their primary employment is permitted. The exclusion of income for local income tax purposes is permitted only for part-time or secondary employment income. Income from other sources such as from businesses or sales of property will continue to be taxed for local income tax as otherwise provided under 45 IAC 3.1-4. If an individual files a claim for refund based on this allowance, the individual must establish that the individual is reporting their income tax and credits for out-of-state taxes with the individual's state of residence in a consistent manner.

For 2024 and later, IC 6-3-2-27.5 permits an income tax exemption for employee compensation if the employee is a nonresident of Indiana and works 30 days or fewer during a calendar year (the "30-day safe harbor"). This exemption does not apply to individuals who are any of the following:

- Indiana residents for any portion of the taxable year
- Professional sports team members, including players, coaches, and other personnel included in the definition of team member provided in IC 6-3-2-2.7(a)(4)
- Race team members, regardless of whether the individual is an employee or an independent contractor

- Other professional athletes who are not professional sports team members or race team members
- Professional entertainers who receive compensation as a professional on a per-event basis
- Public figures, defined as a person of prominence who performs services at discrete events, including speeches, public appearances, and similar events, and are paid on a per-appearance basis.

For the last five categories, if an individual is in one or more of those categories for any part of the year, the individual will not qualify for the 30-day safe harbor.

The 30-day safe harbor applies only to compensation received as an employee. The 30-day safe harbor does not apply to income other than compensation, including but not limited to:

- Self-employment income
- Income received as an independent contractor
- Income other than compensation received from a pass through income, such as net income reported on Schedule IN K-1 or IT-41 Schedule IN K-1.
- Income from the sale or exchange of property attributable to Indiana

The 30-day safe harbor also does not apply to deferred compensation from Indiana sources unless all of the following conditions are met:

- The individual qualified for the 30-day safe harbor for the year in which the compensation was earned.
- The individual performed the services generating the deferred compensation in 2024 or later.
- The individual is not an Indiana resident at the time the deferred compensation is paid.

For purposes of determining whether a particular workday counts toward the 30-day safe harbor, the following apply:

- An employee must be physically present in Indiana for a workday to count.
- Remote work is considered to be performed at the location where the actual work occurs regardless of the employer's location. For instance, a Kentucky resident working remotely from their Kentucky residence will be treated as working from Kentucky. If that same employee worked remotely from a home in Indiana, the employee will be treated as working in Indiana.
- If an employee works in two or more states on the same day, the following apply:
 - If an employee works only in Indiana and the employee's state of residence, the employee will count the workday as an Indiana workday.
 - If an employee works in Indiana and also works in one or more states other than the employee's state of residence, the employee will treat the workday as being attributed to the state in which the employee performed work the longest.
 - Any portion of the day in which the employee is in transit shall not be counted as time for purposes of attributing time to a state.

- If an individual works for an employer in a non-employee capacity (e.g., an independent contractor) and as an employee with substantially similar job duties, the days worked in a non-employee capacity count toward the 30-day safe harbor. In addition, the days worked in a non-employee capacity count regardless of the amount of work performed in Indiana.

If an employee exceeds the 30-day limit,

- The employee is taxable on all compensation from the first day.
- The compensation is subject to county income tax under the normal rules of application within this bulletin and IC 6-3.6.

Refer to [Income Tax Information Bulletin #28](http://in.gov/dor/resources/tax-library/information-bulletins/) regarding this exemption, available at in.gov/dor/resources/tax-library/information-bulletins/.

Tax Rates

Three general categories of LIT rates are available for a county to enact. A county may enact an expenditure rate of up to 2.5% (2.75% for Marion County) subject to the provisions of IC 6-3.6-6. In addition, a county may enact a rate of 1.25% for purposes of property tax relief as permitted under IC 6-3.6-5. Also, various counties are authorized to enact special purpose LIT rates for purposes specified under IC 6-3.6-7.

Under LIT, the cumulative resident CAGIT, CEDIT, and COIT tax rates in effect as of May 1, 2016, continued in effect for each county as the new, singular LIT rate for periods starting Jan. 1, 2017. In addition, if a county passed a LIT rate after July 1, 2016, but before Nov. 1, 2016, that rate was effective Oct. 1, 2016, or Jan. 1, 2017, depending on when the county passed an ordinance changing its LIT rate.

Effective July 1, 2016, the following rules apply to the effective date for a rate change based on the date of the county's passage of the appropriate ordinance:

1. If a county changes its LIT rate between Jan. 1 and Aug. 31 of a calendar year, the revised rate goes into effect on Oct. 1 of that calendar year.
2. If a county changes its LIT rate between Sept. 1 and Oct. 31 of a calendar year, the revised rate goes into effect on Jan. 1 of the next calendar year.
3. If a county changes its LIT rate between Nov. 1 and Dec. 31 of a calendar year, the revised rate goes into effect on Oct. 1 of the next calendar year.

If, under (1) and (3) above, a rate changes on Oct. 1 of a given year, a county taxpayer will be subject to tax at a rate equal to the sum of $\frac{3}{4}$ of the pre-Oct. 1 LIT rate and $\frac{1}{4}$ of the post-

September 30 LIT rate for the year in which the rate changes. For the following year, a county taxpayer will be subject to LIT at the new rate.

Under CAGIT and COIT prior to their repeal, separate resident and nonresident rates were prescribed by law. There is no separate LIT rate for resident or nonresident taxpayers. The taxpayer pays the full rate of tax even if the taxpayer is a nonresident.

Local Income Tax Withheld

A copy of the state Federal Wage and Tax Statement, Form W-2, usually indicates the amount, if any, of LIT withheld. A separate line on the individual income tax return is provided to take credit for local taxes withheld.

Credit for Taxes Paid to Localities Outside of Indiana

A credit against county tax is available to taxpayers who earn income from sources outside Indiana and who are also subject to a local income tax in another state. The credit is the least of: (1) the amount of local income tax actually paid to the locality in the other state; (2) the amount of income taxed by the locality outside of Indiana multiplied by the Indiana local income tax rate to which the taxpayer is subject; or (3) the actual amount of county income tax due. Out-of-state local income taxes may not be claimed as a credit against Indiana state income taxes. For more details, consult *Income Tax Information Bulletin #115*, available at <https://www.in.gov/dor/resources/tax-library/information-bulletins/> (click on "Find sales, income, and general tax bulletins," then click on "List of Income Tax Information Bulletins" tab).

A copy of the tax return filed with the out-of-state locality must be attached to the Indiana return in order to substantiate the credit claimed. When no return is required by an out-of-state locality, a copy of the Form W-2 or another form (e.g., a K-1) showing tax withholdings indicating the local tax withheld must be attached to the return.

Nonresidents of Indiana may not claim this credit against their Indiana county tax liability. If a taxpayer has income derived from more than one out-of-state locality, the credit shall be computed separately for each locality. On a joint return, the husband and/or wife should compute the credit separately. Applying the above limitations, any excess credit of one spouse cannot be used to reduce the county tax liability of the other spouse.

If you have any questions concerning this bulletin, contact the Tax Policy Division at taxpolicy@dor.in.gov.



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