



Indiana Department of Revenue

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Income Tax Information Bulletin #33

Subject: Withholding Requirements for Nonresident Employees

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References: IC 6-3-5-1; IC 6-3.6; 45 IAC 3.1-1-115

Replaces Bulletin #33, dated November 2022

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Summary of Changes

Aside from nonsubstantive, technical changes, this bulletin has been changed to reflect that Local Income Tax (LIT) withholding is required rather than encouraged and to reflect form revisions associated with the 30-day safe harbor for nonresident employees.

Introduction

The withholding of Indiana income taxes is required for all nonresidents employed in Indiana, except for legal residents of states complying with Indiana's reciprocity statute, IC 6-3-5-1.

Indiana has established reciprocity agreements with Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin concerning the collection of income tax from nonresidents employed in Indiana. These agreements provide that Indiana will not impose Indiana adjusted gross income tax on the salaries, wages, tips, and commissions earned by the legal residents of states with reciprocity who work in Indiana. Income from sources other than salaries, wages, tips, and commissions are subject to Indiana adjusted gross income tax.

Indiana residents who work in states with reciprocity will receive identical treatment from those states.

Requirements of Employers

Because of reciprocity agreements, Indiana employers are not required to withhold Indiana adjusted gross income tax from qualified nonresidents but are required to withhold Indiana local income taxes (LITs) if the employee has a principal place of employment in an Indiana county on January 1. Employers are also encouraged to withhold the appropriate taxes on behalf of the state where the employee resides.

For employers who have qualified nonresident employees who work in Indiana for 30 days or less in a calendar year, withholding is not required if you have a time and location reporting system. In addition, withholding is not required if the employee provides a properly completed Form WH-4AFF and meets the 30-day or less presence requirement. Refer to Departmental Notice #1 regarding these requirements, available at in.gov/dor/resources/tax-library/departamental-notices/.

Requirements of Nonresident Employees

A qualified nonresident employee who works in Indiana is required to submit a properly completed form Certificate of Residence (Form WH-47) to his or her employer. This form identifies the employee's state of legal residence. In addition, if a qualified nonresident employee knows or reasonably believes that the employee will not be working in Indiana for more than 30 days during a calendar year, the employee will need to complete Form WH-4AFF to claim an exemption from county taxes.

Taxes Not Affected

Indiana reciprocity agreements do not cover withholding requirements concerning Indiana Local Income Taxes. As mentioned above, employers are required to collect any applicable LITs for the employee. Employees who are residents of reciprocal states are subject to LIT in the same manner as residents of nonreciprocal states.

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



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