

INFORMATION BULLETIN #52

INCOME TAX

AUGUST 2008

(Replaces Information Bulletin #52, dated January 2003)

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 inconsistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, information provided in this bulletin should only serve as a foundation for further investigation and study of the current law and procedures related to its subject matter.

SUBJECT: Withholding Information for Part-Time Employees and Other Miscellaneous Withholding Requirements

EFFECTIVE DATE: January 1, 2009

REFERENCE: IC 6-3-4-15.7

I. WITHHOLDING OF TAX FROM PART-TIME, TEMPORARY, OR SEASONAL EMPLOYEES

Withholding agents are required to withhold both state income tax and county tax at the applicable rates stated on the rate schedules, from the income of all employees, including part-time, temporary, and

seasonal employees. The fact that the employee will not earn in excess of the \$1,000 exemption has no bearing on the withholding by the withholding agent. The Internal Revenue Service, which allows an employee to waive withholding for federal tax purposes when the income is not expected to exceed the federal filing requirements and income allowances, has no bearing on the withholding of taxes from the income of employees for Indiana tax purposes.

II. WITHHOLDING OF TAX FROM SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFIT INCOME

Supplemental Unemployment Compensation Benefits paid to an individual are treated as if they were income, to the extent such benefits are includable in the gross income of such individuals, and therefore are subject to withholding by the withholding agent for Indiana tax purposes.

III. WITHHOLDING OF TAX FROM DISTRIBUTION OF ANNUITY, PENSION, AND RETIREMENT PAYMENTS

The payor of a periodic or nonperiodic distribution under an annuity, a pension, a retirement, or another deferred compensation plan (as described in Section 3405 of the Internal Revenue Code) that is paid to a resident of Indiana shall, upon receipt of a written request from the payee withhold Indiana state and local taxes. The request shall identify the county of residence of the payee, and the amount of state tax to be withheld and the amount of local tax to be withheld. The request must be dated and signed by the payee and specify the payee's name, current address, and Social Security number, and the contract, policy, or account number to which the request applies. The request shall remain in effect until the payor receives in writing from the payee a change in or revocation of the request. The payor is not required to withhold state and local income tax from a payment if the amount to be withheld is less than \$10 or if the amount to be withheld would reduce the affected payment to less than \$10.

IV. WITHHOLDING OF TAX FROM AGRICULTURAL EMPLOYEES

Most compensation earned through agricultural labor is subject to income tax withholding if the compensation is subject to FICA withholding. However, the compensation for services performed in connection with forestry, lumbering, or landscaping is statutorily excluded from wages, and therefore no withholding is required.

V. WITHHOLDING OF TAX FROM CASUAL EMPLOYEES

Withholding agents are not required to withhold Indiana state income taxes from payments made to ordained ministers, casual laborers, such as periodic yard workers, and in some cases household employees. Although these types of income do not require withholding, the Internal Revenue Code provides for voluntary withholding. If the payee makes a request for voluntary withholding of federal income tax, the payor is required to withhold. After this voluntary agreement is entered into, the payor must withhold the Indiana state and county income taxes.

VI. WITHHOLDING OF TAX FROM HOUSEHOLD EMPLOYEES

A person is defined as a household employee if the person does household work and the taxpayer controls what will be done and how it will be done. If the taxpayer pays wages to a household worker who is the taxpayer's employee, the taxpayer may have needed to withhold state and county income taxes. The withholding can be reported on the IT-40 Individual Income Tax Return.

VII. WITHHOLDING OF TAX FROM NONRESIDENT ALIEN EMPLOYEES

Effective Jan. 1, 2009 an employer required to withhold state and local income taxes for a nonresident alien is prohibited from allowing a nonresident alien to claim more than one exemption for withholding purposes.

VIII. INFORMATION RETURN FILING REQUIREMENTS

Information returns that indicate the withholding of Indiana Adjusted Gross or County Income Taxes must be submitted with Indiana Form WH-3. Forms W-2, W-2G, 1099-R, and WH-18 satisfy this requirement.

Information returns that do not report withholding of Adjusted Gross or County Income Taxes should not be submitted to the Department. Forms 1099-B, 1099-DIV, 1099-INT, 1099-MISC, and 1099-S are in this category. These returns must be maintained by the taxpayer for the statutory time period and made available to the Department upon request.

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

John Eckart
Commissioner