



Fiduciary Income Tax FAQs (Frequently Asked Questions)

General Information

1. **What does the word “fiduciary” mean?**

A fiduciary is defined by the Internal Revenue Service as any person in a position of confidence acting on behalf of any other person. A fiduciary assumes the powers, rights, duties and privileges of the person or entity on whose behalf he is acting.

According to Indiana Code 6-3-1-7, “fiduciary” means 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.

Filing Requirements

2. **Who is responsible for filing the Fiduciary Income Tax Return?**

The fiduciary representative is responsible for filing the IT-41 Indiana Fiduciary Income Tax Return.

3. **How do I apply for the federal identification number, and do I need a separate number for Indiana?**

Every estate or trust that is required to file Form IT-41 must have a federal identification number (sometimes called an employer identification number [EIN]) issued by the Internal Revenue Service. This identification number is used on the federal and Indiana returns.

If you have not yet applied for the number, the fastest way is to apply online at www.irs.gov. The federal identification number (or EIN) will be issued **immediately**.

The IRS also allows you to apply by telephone (toll-free at (800) 829-4933 from 7:00 a.m. to 10:00 p.m. in the fiduciary’s local time zone), by fax or by mail.

4. **Can a fiduciary file the Indiana tax forms electronically?**

The department currently does not have the capability to accept electronically filed fiduciary income tax returns. The Forms IT-41 and IT-41ES must be filed using paper

returns. Fillable forms are available online at www.in.gov/dor/3514.htm.

5. **Are there special filing requirements for different types of entities?**

Yes, there are different requirements for specific entities. Please review the following helpful guidelines.

Bankruptcy Estate

A bankruptcy estate of an individual will file form IT-41 with an enclosed copy of the individual's IT-40 Indiana Individual Income Tax Return. The fiduciary return will report only the amount of tax computed on the individual income tax return. If there is tax due, report the tax on line 11 of the IT-41. The payment should be submitted with the IT-41 return.

Charitable Trusts

Charitable trusts filing federal form 5227 Split-Interest Trust Information Return should file form IT-41 with an enclosed copy of form 5227. Form IT-41 will be an informational return.

Common Trust Fund

Common trust funds file form IT-65, Indiana Partnership Return (not the IT-41). For additional information, please contact corporate income tax at (317) 232-0129.

ESBT (Electing Small Business Trust)

Special rules apply when figuring the tax on the S portion of an ESBT. The S portion of an ESBT is the portion of the trust that consists of stock in one or more S corporations and is not treated as a grantor type trust. Following the federal guidelines, the tax on the S portion must be figured separately from the tax on the remainder of the ESBT (if any) and enclosed with the return. Report the tax due on the Indiana portion of income from an Electing Small Business Trust (ESBT) on line 11 of the IT-41 return. You must enclose a separate statement showing the income and tax computation using the Indiana state tax rate.

Estates

An estate of a deceased person is a taxable entity separate from the decedent. It generally continues to exist until the final distribution of the estate assets is made to heirs and other beneficiaries. The income earned from the property of the estate during the period of administration or settlement must be accounted for and reported by the estate.

According to Indiana Code 6-3-4-1 and for taxable years beginning after Dec. 31, 2012, every resident estate having gross income or nonresident estate having any gross income from sources within the state of Indiana exceeding the amount provided in Section 6012(a)(3) of the Internal Revenue Code (currently \$600) for the taxable year must file a return.

For purposes of filing the Indiana Fiduciary Income Tax Return, estates are classified as either resident or nonresident. **For Indiana, the estate residence is determined by the place where it is administered.** Therefore, you must determine where the executor or personal representative is located and where the estate records are kept.

Resident estates are taxable on all gross income of \$600 or more from all sources, regardless of where it is earned.

Nonresident estates are taxable in Indiana on all gross income of \$600 or more derived from Indiana sources. Income derived from sources within and outside of Indiana shall be determined under IC 6-3-2-2 (see Nonresidents). Nonresident estates may adjust federal taxable income (or loss) reported on line 1 to reflect taxable income allocable to Indiana.

Grantor Trusts

In the case of a grantor trust, the income is taxed at the individual level. Therefore, if an IT-41 is filed, it is only considered an informational return identifying the trust and the grantor. Please enclose a statement (or a copy of the federal return) that discloses income and deductions attributable to the grantor. No financial information should be entered on the IT-41.

Private Foundations

Every private foundation with income from sources within the state of Indiana that is taxed as a trust filing federal form 990PF must file using Form IT-41. Please enclose a copy of the federal form 990PF with the IT-41 when filing. Note the due date for filing the IT-41 is the 15th day of the 5th month following the taxable year's close.

Retirement Plans

Every retirement plan with income from sources within the state of Indiana that is taxed as a trust filing federal form 990T must file using Form IT-41. Please enclose a copy of the federal form 990T with the IT-41 when filing. Note the due date for filing the IT-41 is the 15th day of the 5th month following the taxable year's close.

Trusts

According to Indiana Code 6-3-4-1, for taxable years beginning after Dec, 31, 2012, every resident trust having gross income or nonresident trust having any gross income from sources within the state of Indiana exceeding the amount provided in Section 6012(a)(3) of the Internal Revenue Code (currently \$600) for the taxable year must file a return.

For purposes of filing the Indiana Fiduciary Income Tax Return, trusts are classified as either resident or nonresident. **For Indiana, the trust residence is determined by the place where it is administered.** Therefore, you must determine where the trustee or personal representative is located and where the records are kept for the trust.

Resident trusts are taxable on all gross income of \$600 or more from all sources regardless of where it is earned.

Nonresident trusts are taxable in Indiana on all gross income of \$600 or more derived from Indiana sources. Income derived from sources within and outside of Indiana shall be determined under IC 6-3-2-2 (see Nonresidents). Nonresident trusts may adjust federal taxable income (or loss) reported on line 1 to reflect taxable income allocable to Indiana.

A trust may qualify as a **simple** trust if:

- The trust instrument requires that all income must be distributed currently.
- The trust instrument does not provide that any amounts are to be paid, permanently set aside or used for charitable purposes.
- The trust does not distribute amounts allocated to the corpus of the trust.

A **complex** trust is any trust that does not qualify as a simple trust. These determinations are made by the Internal Revenue Service.

6. **Does a fiduciary have to make estimated payments?**

Estimated payments are accepted at the fiduciary level but are not required. Estimated payments may be made using the federal identification number and the IT-41ES Fiduciary Payment Voucher.

There are no carryover provisions for estimated payments. Therefore, overpayments are not applied to the estimated account for the following year. Any overpayments will be refunded. Please do not request to transfer estimated payments between individual and fiduciary accounts.

7. **Is the estate or trust a resident or nonresident of Indiana?**

For purposes of filing the Indiana Fiduciary Income Tax Return, estates and trusts are classified as either resident or nonresident. **For Indiana, the estate or trust residence is determined by the place where it is administered.** Therefore, you must determine where the trustee or personal representative is located and where the records are kept for the trust or estate.

Resident estates or trusts are taxable on all income from all sources regardless of where it is earned. Therefore, resident fiduciaries must report all income wherever derived.

Nonresident estates and trusts are taxable in Indiana on all income derived from Indiana sources. Nonresident estates and trusts must adjust federal taxable income (or loss) to reflect taxable income allocable to Indiana.

Income received from Indiana sources is considered Indiana income to nonresidents, except certain types of Indiana source income that are subject to tax only by the

taxpayer's legal state of residence. Interest, dividends, royalties and gains from the sale of capital assets are subject to tax only by the taxpayer's state of legal residence unless such income results from the conduct of a trade or business in Indiana. If a trade or business is conducted in Indiana, the income should be reported as Indiana income.

Income from a qualified pension, annuity or profit-sharing plan is subject to tax by the taxpayer's legal state of residence. Lump sum distributions from qualified plans are subject to tax by the state that, at the time of distribution, is the taxpayer's legal state of residence. Deferred compensation other than from a qualified retirement plan, accumulated vacation, bonus, severance, sick pay and income from a stock option plan are directly attributable to services performed and are taxable by the state where the services were performed.

8. **What are the due dates for the IT-41 Indiana Fiduciary Income Tax Return?**

Form IT-41 must be filed by the 15th day of the 4th month following the taxable year's close.

For retirement plans filing federal form 990-T and for private foundations filing federal form 990-PF, the return must be filed by the 15th day of the 5th month following the close of the taxable year.

9. **Can the fiduciary file an extension of time to file the tax return?**

The fiduciary may request an extension of time to file if needed. If no tax liability is anticipated, the department accepts the federal extension of time application (Form 7004, Application for Automatic Extension Time to File Certain Business Income Tax, Information, and Other Returns). You do not need to contact the department prior to filing the annual IT-41 fiduciary return. A copy of the federal extension of time must be enclosed with the return when it is filed. **We allow the same time allowed by the Internal Revenue Service, plus 30 days.**

If a fiduciary does not need a federal extension of time but needs one to file the state return, a letter requesting such an extension should be submitted to the department prior to the due date of the annual return. The request should be mailed to:

Indiana Department of Revenue
Fiduciary Section
PO Box 6079
Indianapolis, IN 46206-6079

If you anticipate owing tax on the return, keep in mind that the extension is for time to file, not time to pay. To obtain an extension, the fiduciary must enclose with Form IT-41 a copy of the approved request for extension of filing the federal fiduciary return and pay at least 90 percent of the estimated Indiana tax liability. The extension payment must be sent by the return's original due date with Form IT-41ES, which is available

online at www.in.gov/dor. If tax liability is not anticipated, enclose a copy of the approved federal extension request with the IT-41 return when filing.

10. **Does the fiduciary do anything special for a final return?**

When an estate or a trust is terminated or is required to distribute current income during the taxable year and there is distributable net income, the distributable net income is allocated to the beneficiaries. The beneficiaries must report their respective shares on their IT-40 Individual Income Tax Return or IT-40 PNR Part-Year/Nonresident Individual Income Tax Return. If the nonresident beneficiary has been included on Schedule Composite, and the individual nonresident beneficiary has no other Indiana-source income, then there is no IT-40 PNR filing requirement.

If a final distribution of assets has been made during the year, all income of the estate or trust must be reported to the beneficiaries. Please check the box on the back of Form IT-41 if filing a final return.

Forms

11. **What forms are available for Fiduciary Income Tax purposes?**

- IT-41 Indiana Fiduciary Income Tax Return
- IT-41ES Fiduciary Payment Voucher
- IT-41 Schedule IN K-1
- Schedule Composite

www.in.gov/dor/3514.htm

Other Helpful Resources:

Information Bulletin 1: Fiduciary Income Tax

www.in.gov/dor/reference/files/ib01.pdf

Information Bulletin 19: Government Obligations

www.in.gov/dor/reference/files/ib19.pdf

Information Bulletin 39: Guidelines for Reporting Income from Indiana Sources by Nonresident Individuals

www.in.gov/dor/reference/files/ib39.pdf

Information Bulletin 59: Application of Tax Credits Available to Taxpayers

www.in.gov/dor/reference/files/ib59.pdf

Internal Revenue Service (for federal forms)

www.irs.gov

12. **I received additional information for the trust or estate. How do I amend Form IT-41?**
An amended return must be filed to report changes to an originally filed IT-41. There is not a separate amended fiduciary income tax return. Use Form IT-41 and check the amended return box on the back of the return. Please enclose a complete copy of the amended federal return, if applicable, and include a brief statement as to the reason for the amendment.

If the amendment results in a refund, you must enter any previous payments made with the originally filed return on line 14, "Other Credits," and claim the refund of the overpayment amount on line 20, "Refund Due." If you received a refund from your original return, enter the amount as a negative figure using a dash (-\$1000, for example) on this line to make the amended calculations accurate.

Tax Computations

13. **What is the current tax rate for the IT-41 Indiana Fiduciary Income Tax Return?**
The current tax rate is 3.3% (.033).

Credits

14. **Can a credit for taxes paid to another state be taken on the Indiana return?**
Yes, the department allows credit for taxes paid to other states. Information Bulletin 59 (<http://www.in.gov/dor/reference/files/ib59.pdf>) outlines the requirements and limitations for taking this credit type on the IT-41 return.
15. **Payments were made on behalf of the trust or estate into a withholding account. How does the fiduciary claim credit for those payments?**
Credit may be claimed on line 14, "Other Credits," on Form IT-41. Be sure to enclose a copy of the Schedule IN K-1 to verify withholding payments made.

Payments

16. **Can the fiduciary send one check to pay for multiple IT-41 returns?**
The current processing system is most efficient when processing one return and one check. Please do not send one check for multiple returns or send multiple checks for one return, if possible.
17. **Can the fiduciary send an electronic payment for the amount due on the IT-41 return?**
Currently, there is no capability to accept electronic payments for fiduciary income tax returns. Please make your check or money order payable to the Indiana Department of Revenue and submit it with the paper return.
18. **What is the interest rate for a late payment?**

Interest rates are listed in Departmental Notice 3 at www.in.gov/dor/reference/files/dn03.pdf.

19. **What is the penalty for a late payment or a return filed after the due date?**

There are two basic penalties: a penalty for **filing** late and a penalty for **paying** late.

Late Filing Penalty - If the return is filed after the due date and has **no tax liability** on line 16, the penalty is \$10 each day the return is past due, up to a maximum of \$250.

Late Payment Penalty - If the return has **an amount due** on line 16 and is filed after the original due date, the penalty is 10 percent (.10) of the balance of tax due on line 16 or \$5, whichever is greater.

Note: An extension of time to file does not extend the time to pay any tax due. Tax due must be paid by the original due date. Interest and penalty are calculated on late payments from the original payment due date.

There is no penalty for paying late if **all three** of the following conditions are met:

1. A valid extension of time to file exists.
2. At least 90 percent of the tax liability was paid by the original due date.
3. The remaining tax is paid by the extended due date.

Refunds

20. **How can I check the status of a refund from the IT-41 return?**

The fiduciary representative or the authorized representative listed on Form IT-41 can contact the department (see contact information) for the refund status. Fiduciary refunds may take up to 12 weeks to process.

21. **Can the refund be applied to the estimated account for the trust or estate?**

No. Overpayments will be refunded in the name of the estate or trust.

22. **The executor received a refund check and is unable to cash it at the bank. How can the refund be cashed?**

If the surviving spouse, administrator or executor has received a refund check and cannot cash it, they can use the widow's affidavit (POA-30) or a distributee's affidavit (POA-20) at www.in.gov/dor/3508.htm. Send the completed affidavit, the refund check and a copy of the death certificate to the State Auditor's Office so a refund check can be issued.

Contact Information

23. **How can I contact someone in the Indiana Department of Revenue's fiduciary section?**

You can contact the fiduciary section by:

- Internet at www.in.gov/dor
- Email at webmaster@dor.IN.gov
- Telephone at (317) 232-2067 Monday-Friday from 8:00 a.m. to 4:30 p.m.
- Fax at (317) 615-2697, available 24 hours a day, 7 days a week
- Mail sent to Indiana Department of Revenue, Fiduciary Section, PO Box 6079, Indianapolis, IN 46206-6079
- Visiting a district office

The central and district offices are open Monday through Friday from 8:00 a.m. to 4:30 p.m. Find the nearest district office at www.in.gov/dor/3390.htm.

24. What is the mailing address for forms?

Returns with Payment

Indiana Department of Revenue
Fiduciary Section
PO Box 6192
Indianapolis, IN 46206-6192

All Other Returns or Correspondence

Indiana Department of Revenue
Fiduciary Section
PO Box 6079
Indianapolis, IN 46206-6079

Street Address

Indiana Department of Revenue
Fiduciary Section
100 North Senate Avenue
Indianapolis, IN 46204-2253

25. How can I get tax forms?

The Indiana **IT-41 Fiduciary Income Tax Return** fillable form and the Indiana **IT-41ES Fiduciary Payment Voucher** are available online at www.in.gov/dor/3514.htm.

If you do not have access to a computer, you may call the forms order request line at (317) 615-2581 to request that forms be mailed to you. You will need to leave the following information on the voice mail system:

- Name of form or form number needed
- Number of copies needed
- Contact person's name
- Daytime phone number
- Complete mailing address including city, state, and ZIP Code

Tax forms are also available at district offices throughout Indiana. These offices are open Monday through Friday from 8:00 a.m. to 4:30 p.m. Find the nearest office at www.in.gov/dor/3390.htm.

Nonresident Income

26. **What type of income is reportable to Indiana by a nonresident?**

Income received from Indiana sources is considered Indiana income to nonresidents, except certain types of Indiana source income that are subject to tax only by the taxpayer's legal state of residence. Interest, dividends, royalties and gains from the sale of capital assets are subject to tax only by the taxpayer's state of legal residence unless such income results from the conduct of a trade or business in Indiana. If a trade or business is conducted in Indiana, the income should be reported as Indiana income.

Income from a qualified pension, annuity or profit-sharing plan is subject to tax by the taxpayer's legal state of residence. Lump sum distributions from qualified plans are subject to tax by the state that, at the time of distribution, is the taxpayer's state of legal residence. Deferred compensation other than from a qualified retirement plan, accumulated vacation, bonus, severance, sick pay and income from a stock option plan are directly attributable to services performed and are taxable by the state where the services were performed.

Nonresident Beneficiaries

27. **Basic IT-41 Composite Filing Procedures**

- a) **Schedule Composite** - Complete this schedule, including each nonresident beneficiary. Indicate the name, address, distributive share amount of income derived from sources within Indiana and calculated tax attributable to each nonresident beneficiary. Enclose this schedule with the Form IT-41 Fiduciary Income Tax Return.
- b) **Tax Liability** - On Form IT-41, line 11, enter the combined total tax liability from the Schedule Composite.
- c) **Withholding Requirements** - Based on the provisions in Indiana Code 6-3-4-15, withholding is required when a trust or an estate (fiduciary) distributes Indiana income (except income attributable to interest or dividends) to a non-Indiana resident beneficiary. The Department has streamlined the procedure for making withholding payments for nonresident beneficiaries, eliminating the withholding account and the need to file WH1, WH3, and WH18 forms for nonresidents. Instead,

all withholding monies will be remitted with Form IT-41ES Fiduciary Payment Voucher, and credit for the withholding/composite tax will be reflected on the Schedule IN K-1 for each nonresident beneficiary.

- d) **Claiming Credit for Tax Withheld** – On Form IT-41, line 14, enter the total Indiana withholding tax paid on behalf of the trust or estate. Be sure to enclose a copy of each Schedule IN K-1 to verify the credit claimed. If the withholding credit is being passed through to the individual income tax return for a nonresident beneficiary, the beneficiary must include a copy of the Schedule IN K-1 showing the amount of tax withheld on their behalf.