

Reciprocity

There are no substantive changes since the last version of this publication.

I. INTRODUCTION

Individuals who are employed outside their state of domicile (often referred to as legal residence) may be subject to the income tax laws of two states, that is, their state of domicile and the state in which they are employed.

Two methods exist to prevent the same income from being subject to tax by more than one state. These methods are (1) reciprocity and (2) credit for tax paid to another state.

This publication discusses reciprocity and its effect on residents and nonresidents of Wisconsin. Information on the credit for tax paid to another state can be found in Publication 125, *Credit for Tax Paid to Another State*.

II. WHAT IS RECIPROCITY?

Wisconsin has reciprocity agreements with four states: Illinois, Indiana, Kentucky, and Michigan. As a result of these agreements,

- (1) Wisconsin generally will not tax the personal service income (e.g., salaries, wages, commissions, and fees earned by an employee) of individuals who are domiciled in Illinois, Indiana, Kentucky, or Michigan who are employed in Wisconsin (see Part III for exception), and
- (2) Illinois, Indiana, Kentucky, and Michigan generally will not tax the personal service income of individuals who are domiciled in Wisconsin and who are employed in these states (see Part III for exceptions).

(Caution: Personal service income may mean something different in each state. See Part III for further information.)

Example: An individual is domiciled in Wisconsin. He commutes daily to his job in Illinois. Because his wages are subject to reciprocity, the individual does not have to file an Illinois income tax return to report the income earned in Illinois. He must include the income earned in Illinois on his Wisconsin income tax return.

III. WHAT INCOME IS SUBJECT TO RECIPROCITY?

Reciprocity applies only to personal service income. It does not apply to other types of income, such as gains on the sale of property, rental income, lottery winnings, etc.

The reciprocity agreements with the four states specify the type of personal service income that is subject to reciprocity. Following are descriptions of the personal service income subject to the reciprocity agreement with each of the four states.

Illinois Reciprocity with Illinois is limited to wages, salaries, commissions, and any other remuneration paid to employees for personal services. It does not apply to income from self-employment.

Example: An individual, who is domiciled in Illinois, is self-employed as an accountant. She commutes daily to her office located in Wisconsin. All self-employment income is earned in Wisconsin. Because reciprocity does not apply to income from self-employment, the individual must file a Wisconsin income tax return to report the self-employment income.

Reciprocity also does not apply to:

- Income earned in Wisconsin by an individual who is domiciled in Illinois, but not a resident for Illinois income tax purposes. An individual who is absent from Illinois for one year or more is generally not considered a resident for Illinois income tax purposes.
- Income earned in Illinois by an individual who is domiciled in Wisconsin if the individual is considered a resident of Illinois for income tax purposes. An individual who is in Illinois for other than temporary or transitory purposes is generally considered a resident for Illinois income tax purposes.

Individuals who have questions about whether they are considered Illinois residents for income tax purposes should contact the Illinois Department of Revenue by phone at 1-800-732-8866 or by e-mail via their web site at www.tax.illinois.gov.

Indiana Reciprocity with Indiana is limited to wages, salaries, tips, and commissions received as an employee.

Reciprocity does not apply to income earned in Indiana by an individual who is domiciled in Wisconsin if the individual is considered a resident of Indiana. Individuals domiciled in Wisconsin who have questions about whether they are considered residents of Indiana for income tax purposes should contact the Indiana Department of Revenue by phone at (317) 232-2240 or by e-mail via their web site at www.ai.org/dor/3392.htm.

Note: Individuals who earn income that is not taxable to the State of Indiana because of the reciprocity agreement may still be subject to an Indiana county income tax on that income.

Kentucky Reciprocity with Kentucky is limited to wages, salaries, and commissions received as an employee.

Reciprocity does not apply to income earned in Kentucky by an individual who is domiciled in Wisconsin if the individual is considered a resident of Kentucky for income tax purposes. An individual is considered a resident of Kentucky if he or she lives in Kentucky for more than 183 days during the taxable year. Individuals domiciled in Wisconsin who have questions about whether they are considered residents of Kentucky for income tax purposes should contact the Kentucky Department of Revenue by phone at (502) 564-4581 or by e-mail at:

KRC.WEBResponseIndividualIncome@ky.gov.

Michigan Reciprocity with Michigan is limited to compensation for personal services, including wages, salaries, and commissions received as an employee.

Individuals domiciled in Wisconsin who have questions as to whether reciprocity applies or if income is subject to Michigan tax should contact the Michigan Department of Treasury by phone at (517) 636-4486 or by e-mail at treasIndTax@michigan.gov.

IV. PROCEDURES FOR NONRESIDENTS OF WISCONSIN

How to Prevent Withholding Individuals domiciled in Illinois, Indiana, Kentucky, or Michigan and employed in Wisconsin should file Form W-220, *Nonresident Employee's Withholding Reciprocity Declaration*, with their Wisconsin employers to stop the withholding of Wisconsin income tax from their wages subject to reciprocity. This exemption from withholding will remain in effect as long as the individual is subject to reciprocity.

Filing a Wisconsin Income Tax Return A nonresident or part-year resident of Wisconsin must file a Wisconsin income tax return if his or her gross income from Wisconsin sources is \$2,000 or more. Gross income does not include income that is not taxable to Wisconsin because of reciprocity.

Therefore, if you are domiciled in Illinois, Indiana, Kentucky, or Michigan for the taxable year and your only income from Wisconsin sources is personal service income that is subject to reciprocity, you are not required to file a Wisconsin income tax return for such taxable year. However, if Wisconsin income tax was withheld from your wages, you must file a Wisconsin return (Form 1NPR) to get a refund of the withheld tax.

V. PROCEDURES FOR WISCONSIN RESIDENTS

Filing a Wisconsin Income Tax Return If, while you are domiciled in Wisconsin, you earn personal service income that is subject to reciprocity, you must report such income on your Wisconsin income tax return (Form 1, 1A, or WI-Z for a full-year Wisconsin resident or Form 1NPR for a part-year resident).

Individuals domiciled in Wisconsin who earn income in another state that is subject to reciprocity (that is, the income is not taxable by that state) may not claim a credit on their Wisconsin income tax returns for tax paid to the other state on that income.

If you earn personal service income in Illinois, Indiana, Kentucky, or Michigan and it is taxable by that state, you may claim a credit on your Wisconsin income tax return for net income tax paid to that state. (**Note:** You may not claim credit for other taxes paid such as city tax or county tax.)

Other State's Income Tax Return You are not required to report income subject to reciprocity on a tax return for the reciprocal state (that is, Illinois, Indiana, Kentucky, or Michigan). Therefore, if your only income from a reciprocal state is personal service income that is subject to reciprocity, you are not required to file an income tax return with such reciprocal state. (**Exception:** You must file an Indiana income tax return if the personal service income is subject to an Indiana county tax.) However, if your employer withheld income tax for such reciprocal state from your wages, you will have to file an income tax return with that state to obtain a refund of tax withheld.

Withholding and Estimated Tax Payments You may request your employer to stop withholding income tax for the reciprocal state. Contact your employer or the reciprocal

CAUTION

The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature that are effective as of December 1, 2011. Laws effective after this date, new administrative rules and court decisions, and new or revised reciprocity agreements may change the position reflected in this publication.

state's department of revenue to obtain the required form.

You may also request your employer to withhold Wisconsin income tax from your wages. However, an employer outside Wisconsin may not be required to withhold Wisconsin tax. If your employer does not withhold Wisconsin income tax, you may be required to make estimated tax payments.

Estimated tax payments are generally required if you expect your Wisconsin income tax return to show a balance due of \$200 or more. You may be charged underpayment

interest if the required estimated tax payments are not made.

VI. ADDITIONAL INFORMATION

If you have additional questions or need copies of Wisconsin forms or publications, you may contact any Wisconsin Department of Revenue office or call or e-mail:

for additional information:

Telephone: (608) 266-2772

E-mail: income@revenue.wi.gov

Web site: www.revenue.wi.gov

to request forms or publications:

Telephone: (608) 266-1961

Web site: www.revenue.wi.gov/html/formpub.html