

## **INFORMATION BULLETIN # 86**

### **INCOME TAX**

**AUGUST 2009**

(Replaces Information Bulletin #86, dated July 2001)

**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 serve only as a foundation for further investigation and study of the current law and procedures related to its subject matter.

**SUBJECT:** Independent Contractors' Responsibility for Income Tax Reporting and Withholding

**EFFECTIVE:** July 1, 2009

**REFERENCES:** IC 6-3-4-2; IC 6-3-7-5; IC 6-8.1-3-21.2; IC 22-3-2-14; and IC 22-3-2-14.5

### **INTRODUCTION:**

The purpose of this bulletin is to summarize the reporting and withholding requirements for independent contractors. The bulletin also explains the application procedure for an exemption certificate to be issued to independent contractors that elect not to be covered by worker's compensation insurance.

## **I. RESPONSIBILITY OF INDEPENDENT CONTRACTORS FOR PAYING ESTIMATED TAX AND WITHHOLDING INCOME TAX**

Independent contractors generally do not have income tax withheld by the parties that they contract with for services. Because of this, the independent contractor is required to file quarterly estimated income tax payments with the Department. The simple guideline is that if there is no federal withholding and the independent contractor is required to make federal estimated payments, then Indiana requires the independent contractor to make Indiana estimated payments if the annual Indiana liability exceeds \$1,000.

If the independent contractor hires employees, the independent contractor is an employer and is required to withhold Indiana adjusted gross income tax and local option income taxes from the employees' wages and remit them to the Department of Revenue.

## **II. DEFINITION OF INDEPENDENT CONTRACTOR**

IC 22-3-6-1(b)(7) states: "A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service."

Because of the link to the Internal Revenue Code that Indiana has adopted, those same definitions apply at the state level.

## **III. APPLICATION FOR CERTIFICATE OF EXEMPTION WITH THE DEPARTMENT OF REVENUE**

Effective July 1, 2001, an independent contractor is required to file with the Department a statement and documentation of the independent contractor's status. The independent contractor must pay a \$5.00 filing fee (nonrefundable) and obtain a clearance from the Department before a certificate of exemption is issued. The certificate is valid for one year. The certificate of exemption is required to be filed with the Worker's Compensation Board, and a filing fee of \$15.00 must be paid for the certificate to be effective. The total \$20.00 fee is to be paid to the

Department of Revenue at the time the independent contractor files an application for the workers' compensation exemption certificate. The application is available at [www.in.gov/dor/files/wcfrm.pdf](http://www.in.gov/dor/files/wcfrm.pdf)

The certificate of exemption must be renewed annually with the Department. The certificate of exemption must certify that the independent contractor has workers' compensation coverage for its employees in accordance with IC 22-3-2 through IC 22-3-7 and that the independent contractor desires to be exempt from being able to recover under the workers' compensation policy or self-insurance of a person for whom the independent contractor will perform work.

The Department will cooperate with the Department of Labor, the Workers' Compensation Board, and the Department of Workforce Development concerning improper classification by a contractor of an individual as an independent contractor.

For further information, contact the Collection Division of the Indiana Department of Revenue at (317) 232-5977.

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