

INDIANA

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IT-41

Fiduciary Income Tax Booklet

INDIANA IT-41

Fiduciary Income Tax Booklet Year 2023

Contents

What's New for 2023	4
General Information	4
General Filing Instructions	4
Instructions for Completing Form IT-41	5
Certification of Signatures and Authorization Section	10
Enclosures.....	10
Mailing Options.....	10
Instructions for Schedule 1	10
Instructions for Schedule IN K-1	10
Instructions for Completing Schedule PTET	12
Instructions for Schedule Composite/Schedule Composite-COR	13
Instructions for Schedule IT-40NOL and Carryforward Worksheet	15
Additional Information	18

INTIME e-Services Portal Available

INTIME, DOR's e-services tax portal available at intime.dor.in.gov, provides the following functionalities for IT-41 customers:

- Make payments using a bank account or credit card
- View and respond to correspondence from DOR
- Request and print return transcripts on-demand
- Electronic delivery of correspondence
- Online customer service support through secure messaging

Increased Online Support for Tax Preparers

In addition to the functionality listed above, INTIME provides increased access and functionality for tax preparers. INTIME provides the following functionality for tax preparers:

- Gain access to view and manage multiple customers under one login
- Ability to file returns, make payments, and view file and pay history for clients
- Request electronic power of attorney (ePOA) authorization to view customer accounts
- View and respond to correspondence for clients

We strongly encourage all taxpayers to make payments and file returns electronically whenever possible. INTIME allows customers to make estimated payments electronically with just a few clicks.

What's New for 2023

References to the Internal Revenue Code

The definition of adjusted gross income (AGI) is updated to correspond to the federal definition of adjusted gross income contained in the Internal Revenue Code (IRC). Any reference to the IRC and subsequent regulations means the Internal Revenue Code of 1986, as amended and in effect on January 1, 2023. For a complete summary of new legislation regarding taxation, please see the *Synopsis of 2023 Legislation Affecting the Indiana Department of Revenue* at www.in.gov/dor/files/2023-legislative-synopsis.pdf.

Add-Backs

- **Tax add-back (100)** is now available to Fiduciary filers for certain taxes deducted from federal Schedules C, C-EZ, E and/or F. See page 6 for more information.
- A **new add-back (151)** has been added for certain modifications required to be applied against a net operating loss resulting from an excess business loss. See page 6 for more information.
- A **new add-back (153)** has been added for certain modifications related to net operating losses permitted as a result of excess inclusion income. See page 7 for more information.
- A **new add-back (154)** is available for specified research and experimental expenses required to be amortized for federal income tax purposes. See page 7 for more information.

Deductions

- A **new deduction (639)** is available to allow the deduction for the portion of small employer health insurance premiums that is disallowed for federal purposes as a result of claiming the credit under IRC section 45R. See page 7 for more information.

- A **new deduction (641)** is available to permit a current-year deduction for specified research and experimental expenses otherwise required to be amortized for federal tax purposes. See page 7 for more information.

General Information

Annual Public Hearing

In accordance with the Indiana Taxpayer Bill of Rights, the Indiana Department of Revenue will conduct an annual public hearing in Indianapolis in June of 2024. Event details will be listed at www.in.gov/dor/news-media-and-publications/dor-public-events/annual-public-hearings. Please come and share feedback or comments about how DOR can better administer Indiana tax laws. If not able to attend, please submit feedback or comments in writing to: Indiana Department of Revenue, Commissioner's Office, MS# 101, 100 N. Senate Avenue, Indianapolis, IN 46204.

Our homepage provides access to forms, information bulletins and directives, tax publications, email, and various filing options. Visit www.in.gov/dor.

General Filing Instructions

A **fiduciary** is defined by the Internal Revenue Service (IRS) 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 they are acting.

According to Indiana Code (IC) 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.

This tax return is used by the fiduciary representative to report the income, deductions, gains, losses, etc. of the estate or trust; the income that is either accumulated or held for distribution to beneficiaries; or the income tax liability of the estate or trust. This form is also used for private foundations and retirement plans that are taxed as trusts by the IRS.

Examples of fiduciaries include administrators, conservators, designees, executors, guardians, receivers, trustees of a trust, trustees in bankruptcy, personal representatives, persons in possession of property of a decedent's estate, and debtors-in-possession of assets in any bankruptcy proceeding by order of the court.

A decedent's estate or a trust (except for a grantor type trust) is a separate legal entity for federal and state tax purposes. A **decedent's estate** comes into existence at the time of the death of an individual. A **trust** may be created during an individual's life (inter vivos) or at the time of the individual's death under a will (testamentary). If the trust instrument contains certain provisions, the person creating the trust (the grantor) is treated as the owner of the trust's assets.

For purposes of filing the Indiana Fiduciary Income Tax Return, estates and trusts are classified as either resident or nonresident. **For Indiana purposes, the residence of a trust is determined by the location 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 estates or trusts are taxable on all federal taxable income from all sources regardless of where the income is earned. For estates, residence is based on the decedent's residence at the time of death.

Nonresident estates and trusts are taxable in Indiana on all federal taxable income derived from Indiana sources. Income derived from sources within and without Indiana shall be determined under IC 6-3-2-2 (see "Nonresidents"). Nonresident estates and trusts may adjust federal taxable income (or loss) reported on line 1 to reflect taxable income allocable to Indiana.

A decedent's estate or trust figures its gross income in much the same manner as an individual does. Many deductions and credits that are allowed for individuals are also allowed for estates and trusts. An estate or a trust may be allowed an income distribution deduction for distributions to **beneficiaries** (heirs). This deduction is calculated at the federal level and determines the amount of any distributions taxed to the beneficiaries. For this reason, an estate or a trust is sometimes referred to as a pass-through entity. Most estates and trusts file Form 1041 at the federal level and file Form IT-41 at the Indiana level.

Many of the necessary determinations are done at the federal level by the IRS. Therefore, you must complete federal Form 1041, U.S. Income Tax Return for Estates and Trusts, before you begin filling out Indiana's Form IT-41. If you need to contact the IRS, you can access its website at www.irs.gov to download forms and instructions. You can also order federal forms and publications by calling 1-800-TAX-FORM ((800) 829-3676).

According to IC 6-3-4-1 and for taxable years beginning after Dec. 31, 2012, every resident estate or trust having gross income or nonresident estate or 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 (IRC)(currently \$600) for the taxable year must file a return.

Form IT-41 must be filed by the 15th day of the fourth month following the close of the taxable year. 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 fifth month following the close of the taxable year.

If an extension of time to file is needed, the fiduciary may request an extension of time to file. If a federal extension has been granted, simply attach a copy of the federal extension form to Form IT-41 when you file the return. **Indiana allows the same amount of time granted by the IRS, plus 30 days (one month for extensions ending after December 1, 2023).**

Effective Jan. 1, 2015, IC 6-3-4-15 now provides that all nonresident beneficiaries must be included in a composite return schedule, and the fiduciary for the trust or estate must continue to withhold Indiana

adjusted gross income tax for all nonresident beneficiaries. Each nonresident beneficiary's composite tax is calculated on the Schedule Composite/Schedule Composite-COR and reported on the Form IT-41. DOR has streamlined the process for making withholding payments. There is no need to open a withholding account and file the WH1 and WH3 forms. Instead, all withholding payments will be remitted with Form IT-41ES, Fiduciary Payment Voucher. The credit will be reflected on the Schedule IN K-1 for each beneficiary.

For further information, consult Income Tax Information Bulletin #1 at www.in.gov/dor/files/reference/ib01.pdf, and Income Tax Information Bulletin #72 at www.in.gov/dor/files/reference/ib72.pdf.

Instructions for Completing Form IT-41

Amended Return

Check this box if this return is being filed to correct or make changes to a previously filed IT-41 form.

Taxable Year

The taxable year shall be the calendar or fiscal taxable year of the taxpayer as shown on Form 1041, U.S. Income Tax Return for Estates and Trusts. If you are filing a calendar-year return, please enter the 4-digit tax year in the box (YYYY). If you are filing a fiscal-year return, please enter the beginning and ending period dates in the fiscal year boxes (MM/DD/YYYY).

Name and Address

Enter the name of the estate or trust, the name and title of the fiduciary representative, and the complete address (as they appear on the federal Form 1041).

Federal Identification Number

Enter the federal identification number (FEIN) on the IT-41. Every estate or trust that is required to file Form IT-41 must have an FEIN (sometimes called an employer identification number) issued by the IRS.

If you have not applied for the number yet, the fastest way is to apply online at www.irs.gov. The FEIN 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, and by mail.

Rounding to the Nearest Whole Dollar

When making your mathematical calculations on the return, please round your numbers to the nearest whole dollar. To do so, drop any cents less than 50 cents and increase amounts from 50 cents to 99 cents to the nearest whole dollar. For example: \$100.32 would be \$100, and \$100.65 would be \$101.

Line 1 – Taxable Income

Enter the federal taxable income (after exemptions) from federal Form 1041 (line 23). If there is no federal taxable income to report because distributions were made to beneficiaries, enter zero. If your federal taxable income is a loss, please indicate that with a dash and not with brackets. A loss of \$100 would be shown as -100.

If you are filing Form 990-T, Exempt Organization Business Income Tax Return, or Form 990-PF, Return of Private Foundation with the IRS, please begin with federal taxable income or unrelated business taxable income if applicable. Please include a copy of the federal return with the IT-41 for reference.

If you are filing Form 5227, Split-Interest Trust Information Return, at the federal level, please file the IT-41 as an informational type of return and include a copy of the federal return.

Line 2 – Indiana Additions or Add-backs

The IT-41 Indiana Fiduciary Return begins on line 1 with federal taxable income. Included in that income amount might be items that are taxed at the Indiana level (even though they aren't at the federal taxable level). Therefore, you might have to add back some income amounts on line 2 of the IT-41 or deduct certain items to arrive at the proper taxable amount of Indiana income. These add-backs or deductions will not be reported directly with a code. Please retain information related to any add-backs or deductions listed on line 2 of the IT-41 in the event the department audits or reviews your return. Current add-backs and deductions are found at IC 6-3-1-3.5(f). The most common add-backs and deductions include the following:

Tax Add-back (3-digit code: 100)

Add back all state taxes based on or measured by income, levied by any state, which were deducted on the federal tax return.

Wagering taxes fall within this category to be added back. However, the amount to be added back is being phased out. See the following instructions.

- **Wagering taxes.** The portion of wagering taxes required to be added back as a tax based on or measured by income is being reduced (phased out). The percentage of taxes required to be added back is determined by the first date of the taxpayer's taxable year, and is determined as follows: 2019 – 87.5% ; 2020 – 75%; 2021 – 62.5%; 2022 – 50%; 2023 – 37.5% 2024 – 25.0%; 2025 – 12.5%; 2026 and later – no add back required.

For example, Casino X deducts \$10,000,000 in riverboat wagering taxes in 2023. Casino X reports a \$10,000,000 federal income tax deduction for these taxes in 2023. Trust A owns 10% of Casino X. Trust A's share of Casino X's income taxes is \$1,000,000. Instead of Trust A adding back the full \$1,000,000, Trust A will add back \$375,000.

Add-back for Bonus Depreciation (3-digit code: 104)

Add back an amount attributable to bonus depreciation in excess of any regular depreciation that would be allowed if an election under IRC Section 168(k) had not been made as applied to property in the year that it was placed into service. Taxpayers who own property for which additional first-year special depreciation for qualified property was allowed in the current taxable year or in an earlier taxable year must add or subtract an amount necessary to make their federal taxable income equal to the amount computed without applying any bonus depreciation. Enclose a statement explaining any adjustment. Special rules may apply if the bonus depreciation occurs for property acquired in a like-kind exchange or for property placed in service

in a year in which the estate or trust has an excess business loss. Income Tax Information Bulletin 118 at explains this initial required modification on the allowance of depreciation for state tax purposes.

Add-back for Section 179 Expense Excess (3-digit code: 105)

Enter any IRC Section 179 deduction claimed for federal tax purposes that exceeds the amount recognized for state tax purposes. Indiana adopted the former expensing limit provided by The Jobs Creation and Workers Assistance Act of 2002 and has since specified an expensing cap of \$25,000. However, Indiana continues to follow the federal phase-out limit of \$2,500,000 (adjusted for inflation). Enclose a statement to explain your adjustment. Special rules may apply if the Section 179 expensing is claimed for property acquired in a like-kind exchange or for property placed in service in a year in which the estate or trust has an excess business loss. Income Tax Information Bulletin 118 at www.in.gov/dor/files/ib118.pdf provides additional information on computation and special rules.

Add-back for OOS Municipal Obligation Interest (3-digit code: 137)

Interest earned from a direct obligation of a state or political subdivision other than Indiana (out of state, or OOS) is taxable by Indiana if the obligation is acquired after Dec. 31, 2011. Interest earned from obligations held or acquired before Jan. 1, 2012, is not subject to Indiana income tax and should not be reported as an add-back.

For more information about this add-back, see Income Tax Information Bulletin 19 at www.in.gov/dor/files/reference/ib19.pdf.

Add-back for Section 199A Deduction (3-digit code: 144)

Enter any amount deducted by the trust or estate for qualified business income under IRC Section 199A.

Modifications for Excess Business Losses (3-digit code: 151)

If you:

- Have a current-year excess business loss under IRC section 461(l) that is not deducted in determining your federal adjusted gross income,
- Have current-year federal deductions that:
 - o are disallowed in determining your current-year federal adjusted gross income, and
 - o for which an add-back is required for Indiana adjusted gross income tax purposes,

use Code 151 to deduct the add-backs required for Indiana purposes. The most common examples will be bonus depreciation, IRC section 179 expensing, and the add-back for state and local taxes deducted in determining federal adjusted gross income. Do not report modifications arising from prior year Indiana modifications such as bonus depreciation catch-up modifications.

First, if you have such add-backs, report the add-backs in the normal manner as if no excess business loss limitation was in effect under IRC section 461(l). Second, report the lesser of the add-backs required for Indiana purposes or the IRC section 461(l) disallowance (Form 461, Line 16) as a Code 151 deduction.

The Code 151 deduction will *reduce* the net operating loss carryforward allowable for Indiana purposes.

Example. Trust A has \$100,000 of federal adjusted gross income, consisting of \$370,000 ordinary income and a \$270,000 allowable loss from Partnership A. Trust A has a \$300,000 excess business loss disallowed from Partnership A. Trust A's share of Partnership A's income included \$470,000 in losses other than bonus depreciation and \$100,000 of bonus depreciation, of which only \$270,000 of cumulative losses are allowed in the current year. Trust A otherwise has an \$80,000 bonus depreciation add-back for Indiana purposes. Trust A will report the \$80,000 add-back for bonus depreciation and also report an \$80,000 deduction using Code 151. This will also result reduce the net operating loss for the current year to \$220,000 (\$300,000 excess business loss minus \$80,000

Example. Trust A has \$100,000 of federal adjusted gross income, consisting of \$370,000 ordinary income and a \$270,000 allowable loss from Partnership A. Trust A has a \$300,000 excess business loss disallowed from Partnership A. Trust A's share of Partnership A's income included \$170,000 in losses other than bonus depreciation and \$400,000 of bonus depreciation, of which only \$270,000 of cumulative losses are allowed in the current year. Trust A otherwise has a \$320,000 bonus depreciation add-back for Indiana purposes. Trust A will report the \$320,000 add-back for bonus depreciation. However, because the excess business loss is less than the Indiana add-back, the Code 151 deduction is limited to the \$300,000 excess business loss. The net operating loss for the current year will be zero.

Modifications from Excess Inclusion Income (3-digit code: 153)

If you:

- Have a net operating loss for federal purposes incurred the current taxable year that does not appear in your federal taxable income as a result of reporting excess inclusion income under IRC section 860E; and
- Have modifications to your Indiana adjusted gross income that are allowable in determining your Indiana net operating loss, use Code 153 to report the amount of modifications that are allowable in determining your net operating loss. Report the net modifications using the inverse of the signage for the underlying modifications.

Example. Trust A has a \$100 of excess inclusion income. Trust A also has a \$20,000 Indiana bonus depreciation add-back and a \$50,000 net operating loss for federal purposes. Trust A will report the \$20,000 add-back as bonus depreciation and a negative \$20,000 using Code 153. The Code 153 amount will reduce the net operating loss to \$30,000.

Do not report a Code 153 deduction larger than your federal net operating loss incurred during the taxable year.

Example. Trust A has a \$100 of excess inclusion income. Trust A also has a \$60,000 Indiana bonus depreciation add-back and a \$50,000 net operating loss for federal purposes. Trust A will report the \$60,000 add-back as bonus depreciation. However, because Trust A has a federal net operating loss, Trust A will report a negative \$50,000 using Code 153 (not \$60,000). The Code 153 amount will reduce the net operating loss to zero.

Do not use Code 153 if you do not have a federal net operating loss incurred in the current taxable year. See instructions for Schedule IT-40NOL on page 15 for further information.

Specified Research and Experimental Expenses Add-Back (3-digit code: 154)

If you claimed a federal income tax deduction for specified research and experimental expenses that are required to be amortized for federal purposes pursuant to IRC section 174, add back the amount of expenses you actually deducted for federal income tax purposes. See the instructions for Code 641 for further information on the amount of expenses allowable as a deduction.

Note. If after printing of these instructions, IRC Section 174 is amended to allow immediate expensing of research and experimental expenses and you elect to amortize those expenses, you cannot use this code and Code 641 to accelerate the allowance of your expenses.

Example. Trust A incurred \$100,000 of specified research expenses in 2023. Trust A did not distribute any income to its beneficiaries in 2023. Trust A reported \$10,000 of amortized expenses in 2023. Trust A will use Code 154 to add back the \$10,000 claimed for federal purposes and use Code 641 to report \$100,000 allowable for Indiana purposes. For 2024-2028, Trust A will continue to use Code 154 to report timing differences.

Government or Civic Group Capital Contribution Deduction (3-digit code: 633)

Subtract any amount included in federal taxable income that are capital contributions from a government or civic group and not excluded under IRC Section 118. This deduction is the amount reported to you on Schedule IN K-1 provided by an S corporation.

Small Employer Health Insurance Premium Deduction (3-digit code: 639)

If you:

- Claimed a federal tax credit for small employer health insurance premiums under IRC section 45R; and
- Would have been permitted a deduction for those premiums except for the disallowance under IRC section 280C(h), you are permitted a deduction for the portion of the premiums disallowed for federal purposes. Use Code 639 to enter the amount of premiums for which a deduction was disallowed for federal purposes because you claimed a federal tax credit for small employer health insurance premiums.

Specified Research and Experimental Expenses Deduction (3-digit code: 641)

If you claimed a federal income tax deduction for specified research and experimental expenses that are required to be amortized for federal purposes pursuant to IRC section 174, deduct the amount of expenses paid or incurred in the current taxable year for federal income tax purposes. See the instructions for Code 154 for further information on the amount of expenses required to be added back. Do not claim this deduction for any research expenses for which a deduction is disallowed under IRC section 280C(c).

Note. If after printing of this bulletin, IRC Section 174 is amended to allow immediate expensing of research and experimental expenses and you elect to amortize those expenses, you cannot use this code and Code 154 to accelerate the allowance of your expenses.

Example. Trust D incurred \$100,000 of specified research expenses in 2023. Trust D reported \$10,000 of amortized expenses in 2023. Trust D will use Code 641 to report \$100,000 allowable for Indiana purposes and use Code 154 to add back the \$10,000 claimed for federal purposes. For 2024-2028, Trust D will continue to use Code 154 to report timing differences.

Line 3 – IRC Section 965 income

For an estate or a trust that did not distribute all repatriated dividends (IRC section 965) received by it, list the amount on Federal Form 965, Part II, line 17. If the estate or trust distributed the repatriated dividends in whole or in part, add back only the portion attributable to the amount not distributed by the estate or trust.

Line 4 – Net Operating Loss Deduction

Add back the net operating loss deduction claimed on your federal return. The Indiana portion of the net operating loss deduction may be claimed on line 8. You must enclose a copy of the Indiana Schedule IT-40NOL, Individual Income Tax Net Operating Loss Computation. If you completed federal Form 1045, please keep a copy of the form and provide a copy to the department if the department requests the form.

Line 5 – Total Income

Add lines 1 through 4. Enter the amount here.

Line 6 – U.S. Government Obligations Interest

Enter the amount of interest on U.S. government obligations that is nontaxable by Indiana only to the extent that such income was reported on line 1. Deductions allocable to tax-exempt income must be used only against tax-exempt income. Therefore, if interest in U.S. government obligations is excludable on the Indiana fiduciary return, expenses related to such tax-exempt income must be added back to taxable income for Indiana purposes.

Line 7 – Non-Indiana Fiduciary Income

Nonresident trusts or estates may enter the portion of federal fiduciary taxable income not apportioned or allocated to Indiana. A separate statement (or other state's tax return) must be enclosed indicating to which state the income is attributable.

Line 8 – Indiana Portion of Net Operating Loss

Enter the Indiana portion of net operating loss deduction and enclose Indiana Schedule IT-40NOL. Please review the IT-40NOL and instructions before entering an amount on this line.

Line 9 – State Taxable Income

Subtract lines 6, 7, and 8 from line 5. This is your Indiana taxable income.

Line 10 – State Adjusted Gross Income Tax

Multiply the amount on line 9 by 3.15% (.0315). If the result is less than zero, leave blank.

Line 11 – Additional Tax

Please complete and include Schedule 1 for Form IT-41. The schedule breaks down the type and amount of additional tax to be entered on line 11.

- **Bankruptcy Estate.** Please enter the amount of tax due from the Indiana individual income tax return. Enclose a copy of the IT-40 showing calculations.
- **Composite Tax.** Enter the total tax liability from the IT-41 composite filing schedule for nonresident beneficiaries. Enclose the completed Schedule Composite/Schedule Composite-COR.
- **ESBTs.** Report the tax due on the Indiana portion of income from an electing small business trust (ESBT). You must enclose a statement showing the income and tax computation using the 3.15% (.0315) Indiana state tax rate.
- **PTET.** Enter any Indiana PTET that you are passing through to your beneficiaries. Do not enter the PTET that you have received as a credit from other pass through entities.
- **Sales or Use Tax.** The purchase of all tangible personal property to be used by the fiduciary is subject to either the sales tax or the use tax. If the sales tax is not paid at the time of purchase, the buyer is liable for payment of the use tax at the rate of 7% (.07) of the total purchase price.

Line 12 – Total Tax

Add lines 10 and 11. Enter the result here.

Line 13 – Fiduciary Estimated Tax Paid

Enter the total amount of fiduciary estimated payments made during the taxable year by the fiduciary. These payments should have been made using the FEIN and the IT-41ES, Fiduciary Payment Voucher. If you made an extension payment, include the amount of your extension payment combined with the amount of the estimated payments.

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.

Line 14 – Other Credits

Note. Please remember to enclose verification for credits claimed. If DOR disallows the credits due to insufficient information, you may receive a bill for additional tax on your tax return.

- **Withholding Credit.** If you are claiming withholding credits (paid into a withholding account or paid with the Form IT-41ES as a composite payment) and have Schedule IN K-1(s) showing the Indiana tax withheld, please include a copy of the Schedule IN K-1 for verification purposes.

If you have withholding credit from a 1099-R Form, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., enter the amount of Indiana state tax withheld on this line and enclose a copy of the 1099-R form.

- **PTET Credit.** If you are claiming credit for PTET paid by another entity and have Schedule IN K-1(s) showing the Indiana PTET, please include a copy of the Schedule IN K-1 for verification purposes.

- **Amended Return.** If you are filing an amended return and made a payment with your original return, include the amount of the original payment on this line. If you received a refund from your original return, you may enter the amount as a negative figure (using a dash, -\$1000) on this line to make the amended calculations accurate.
- **Other Credits.** Many credits are available at the fiduciary level, similar to credits available to an individual. The main thing to remember when entering an amount as Other Credits is to enclose the required verification with the IT-41 form. The credits are subject to the limitations detailed in Information Bulletin 59 available at www.in.gov/dor/files/reference/ib59.pdf.

Line 15 – Total Credits

Add lines 13 and 14. Enter the result here.

Line 16 – Balance of Tax Due

Subtract line 15 from line 12. Enter the result here.

Line 17 – Penalty

If you are filing this return after the original due date and/or you have a balance of tax due, you probably owe a penalty. If you owe a penalty, enter the penalty amount on line 17.

- **Late Filing Penalty.** If the return is filed after the due date and has no tax liability on line 16, the penalty for failure to file by the due date is \$10 per day that 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% (.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 due date of the payment.

The penalty for paying late is not due if all 3 of the following conditions are met:

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

Line 18 – Interest

If a return is filed and payment is made after the original due date, interest must be included with the payment. Interest is calculated from the original due date until the date the payment is made. Interest rates are listed in Departmental Notice #3 available at www.in.gov/dor/files/reference/dn03.pdf or you can contact DOR to get the current interest rate or calculation.

Line 19 – Total Amount Due

Add lines 16, 17, and 18. Enter the result here. This is the amount of total tax owed to DOR. Please make your check or money

order payable to “Indiana Department of Revenue” and send your payment with your return.

If you are unable to mail your payment when you file the return, you may receive a bill that includes additional interest and/or penalties due on the return.

Note. If you owe with your return, please send your check or money order in the same envelope with the IT-41 tax return for more efficient processing. Please do not staple your check to the IT-41 or attach it in any way. If you are sending several returns in the same envelope, please send a separate check for each return that has an amount due.

Line 20 – Refund Due

If line 15 is greater than line 12, enter the difference. This is the amount of overpayment and the amount that will be refunded in the name of the trust or estate.

Check Applicable Boxes

- **First Return.** Check this box if this is the first return filed in Indiana for the trust or estate.
- **Final Return.** Check this box if this is the last return to be filed in Indiana for the trust or estate.
- **Fiduciary Name Change.** Check this box if there has been a change or correction to the fiduciary representative.
- **Address Change.** Check this box if there has been a change of address for the trust or estate.
- **Federal Extension.** Check this box if there is a federal extension of time to file.
- **State Extension.** Check this box for a state extension of time to file.

The IRS makes the determination at the federal level as to which type of entity applies to your specific situation. Please check the box that agrees with the entity indicated on the federal form you completed for the trust or estate. If none of these apply to your situation, please indicate “Other” and specify which type of entity is involved:

- Retirement plan
- Estate
- Simple trust
- Complex trust
- Bankruptcy estate
- ESBT trust
- Grantor trust
- Other (please specify)

Questions

1. **Is there a nonresident beneficiary?**
Indicate “Yes” or “No” by checking the box.
2. **How many Schedule IN K-1s are enclosed with this return?**
Enter the number of Schedule IN K-1 forms enclosed with the return. If there are none, leave the box blank.
3. **If this is an estate return, enter the date of the decedent’s death and Social Security number.**
Enter the decedent’s date of death and the decedent’s Social Security number. If this is not an estate return, leave the boxes blank.

4. **If this is a trust return, enter the date the entity was created.**
Enter the Date Entity Created from the federal 1041 form. If this is not a trust return, leave the box blank.
5. **Was a final individual return filed for decedent?**
Indicate "Yes" or "No" by checking the box.
6. **If this is a grantor trust return, enter the grantor's Social Security number.**
Enter the grantor's Social Security number. If this is not a grantor type trust return, leave the box blank.

Certification of Signatures and Authorization Section

The IT-41 must be signed by the fiduciary (trustee, executor, personal representative, etc.) to be considered a valid return.

Paid Preparer Information

The preparer information section in the signature area is for the paid preparer's information. The preparer's identification number is the preparer's taxpayer identification number (PTIN). If there is no paid preparer, leave this section blank.

Enclosures

It is very important that you provide supporting documentation for income, deductions, and credits claimed on the IT-41. Failure to do so can result in longer processing time for your return. If you are claiming a refund, please include a complete copy of the federal Form 1041. If you are not claiming a refund, you may include (at least) the first 2 pages of the federal Form 1041 along with any pertinent schedules, such as the Schedule IN K-1 or verification for deductions or credits claimed on the Indiana return.

Enclose all Schedule IN K-1s, Schedule PTET, and any Schedule Composites.

If you are claiming credit for Indiana taxes withheld or for PTET, you must include a withholding or PTET statement (W-2, 1099-R, or Schedule IN K-1) so DOR can verify that payments have been made for the trust or estate in an actual Indiana withholding account.

Mailing Options

Returns with Payment:

Indiana Department of Revenue
Fiduciary Section
P.O. Box 6192
Indianapolis, IN 46206-6192

All Other Returns or Correspondence:

Indiana Department of Revenue
Fiduciary Section
P.O. Box 6079
Indianapolis, IN 46206-6079

If you need an actual street location address, you may use:

Indiana Department of Revenue
Fiduciary Section
100 N. Senate Ave.
Indianapolis, IN 46204-2253

Instructions for Schedule 1

Line 1, Bankruptcy Estates. Enter the amount of tax due from the Indiana individual income tax return. Enclose a copy of the IT-40 showing calculations.

Line 2, Composite Tax. Enter the total tax liability from the IT-41 composite filing schedule for nonresident beneficiaries. Enclose the completed Schedule Composite/Schedule Composite-COR.

Line 3, Pass Through Entity Tax. Enter the total amount of PTET passing through to your beneficiaries. Include a copy of Schedule PTET with the return.

Line 4, ESBTs. Report the tax due on the Indiana portion of income from an electing small business trust (ESBT). You must enclose a statement showing the income and tax computation using the 3.15% (.0315) Indiana state tax rate.

Line 5, Sales or Use Tax. The purchase of all tangible personal property to be used by the fiduciary is subject to either the sales tax or the use tax. If the sales tax is not paid at the time of purchase, the buyer is liable for payment of the use tax at the rate of 7% (.07) of the total purchase price.

Line 6, Total Other Taxes. Add lines 1 through 4. Enter the result here and on Form IT-41, Line 11.

Instructions for Schedule IN K-1

Enclose a copy of each beneficiary's Schedule IN K-1 with Form IT-41. Also provide a completed copy of Schedule IT-41 IN K-1 for each beneficiary.

Complete the tax year beginning and ending dates.

Enter the name of the trust or estate and the Federal Employer Identification Number (FEIN).

Please check the appropriate box to indicate if this is an amended K-1, final K-1, or if for a nonresident beneficiary.

Part 1 – Identification and Distribution Information

Complete a separate Schedule IN K-1 for each beneficiary.

Line 1. Enter the name of the beneficiary.

Line 2. Enter the beneficiary's Social Security number if an individual or the federal employer identification number (FEIN) if another entity.

Line 3. Enter the beneficiary's address.

Line 4. Enter the beneficiary's city of residence.

Line 5. Enter the beneficiary's state of residence.

Line 6. Enter the beneficiary's ZIP Code.

Line 7. Enter the applicable pro rata percentage of the beneficiary's interest in the trust or estate.

Line 8. If the beneficiary is a nonresident and the nonresident individual's principal place of employment or business (e.g., self-employment) is in an Indiana county as of January 1 of the taxable year, enter the 2-digit code number for that Indiana county in the box. Otherwise, leave this box empty.

Line 9. Enter the name of the entity that remitted the actual withholding payment on behalf of the beneficiary.

Line 10. Enter the FEIN of the paying entity.

Line 11. Enter the amount of pass through entity tax (PTET) paid by another entity that is being attributed to the beneficiary as PTET.

Note. An estate or trust cannot make its own PTET election. However, if a partnership or S corporation makes a PTET election, the trust or estate can pass through the PTET to its beneficiaries. Do not include any amount withheld or credited to withholding on this line.

Line 12. Enter the amount of Indiana state tax withheld. This amount should only include withholding or composite payments actually made on behalf of the beneficiary. Do not include amounts credited to the beneficiary as PTET.

Line 13. Enter the amount of Indiana county tax withheld, if applicable.

County tax must be calculated on nonresident individual beneficiaries if two conditions are met for that beneficiary:

1. The nonresident individual must have a principal place of employment or business (e.g., self-employment) in an Indiana county as of January 1 of the taxable year; and,
2. The estate or trust must have income from the individual's county of principal employment or business during that year. If an estate or trust has income from more than one Indiana county, only the portion derived from the individual's county of principal employment or business is subject to Indiana county income tax. To determine what portion of the income is derived from a county, the estate or trust shall apportion its Indiana adjusted gross income across counties based on the receipts derived from each county.

In the case of a nonresident individual whose only Indiana activity is owning an interest in the entity, do NOT enter an amount for county tax for that individual. Also, leave Line 8 blank.

Part 2 – Pro Rata Share of Indiana Pass-through Tax Credits from Trust or Estate

If the trust or estate has available any eligible Indiana credits flowing through to the beneficiary, complete this section.

Refer to Information Bulletin #59 at www.in.gov/dor/files/reference/ib59.pdf for credit codes and additional information.

Column A. Enter the FEIN of the entity awarded the credit.

Column B. Enter the credit certification year.

Column C. Enter the credit's certification or project number (including PIN if provided by granting organization) for credit codes 818, 820, 835, 849, 857, 858, 860, 863, 865, 867, 868, 869, 1818, 1820, 1849, 1858, 1860, 1863, 1865, 1867, 1868, and 1869.

Column D. Enter the 3-digit or 4-digit credit code.

Column E. Enter the credit amount allowable for the beneficiary.

Part 3 – Distributive Share Amount

Complete lines 1 through 11 for the beneficiary. Enter the beneficiary's share of income, credits, and modifications taken directly from the federal Schedule K-1 (Form 1041).

Line 1. Enter the beneficiary's share of interest income from federal Schedule K-1 (Form 1041) line 1.

Line 2. Enter the beneficiary's share of ordinary dividends from federal Schedule K-1 (Form 1041) line 2a.

Line 3. Enter the beneficiary's share of net short-term capital gains from federal Schedule K-1 (Form 1041) line 3.

Line 4. Enter the beneficiary's share of net long-term capital gains from federal Schedule K-1 (Form 1041) line 4a.

Line 5. Enter the beneficiary's share of other portfolio and nonbusiness income from federal Schedule K-1 (Form 1041) line 5.

Line 6. Enter the beneficiary's share of ordinary business income from federal Schedule K-1 (Form 1041) line 6.

Line 7. Enter the beneficiary's share of net rental real estate income from federal Schedule K-1 (Form 1041) line 7.

Line 8. Enter the beneficiary's share of other rental income from federal Schedule K-1 (Form 1041) line 8.

Line 9. Enter the beneficiary's share of directly apportioned deductions from federal Schedule K-1 (Form 1041) line 9 and allowable in determining the beneficiary's Indiana adjusted gross income.

Line 10. Enter the beneficiary's share of final year deduction from federal Schedule K-1 (Form 1041) line 11 and allowable in determining the beneficiary's Indiana adjusted gross income.

Line 11. Add the sum of lines 1-8 minus lines 9 and 10. If the beneficiary is an individual, subtract only the portion of lines 9 and 10 allowable in determining the individual's federal adjusted gross income.

Part 4 – State Modifications

Enter the distributive share amount of each modification for Indiana adjusted gross income on the front of form IT-41. For nonresidents, apply apportioned figures. (Use a minus sign to denote negative amounts.)

Add or subtract these items as applicable.

Line 1. Enter the beneficiary's share of state income taxes deducted.

Line 2. Enter the beneficiary's share of net bonus depreciation allowance.

Line 3. Enter the beneficiary's share of excess IRC Section 179 deduction.

Line 4. Enter the beneficiary's share of interest on U.S. obligations. Enter this amount as a negative number.

Lines 5 through 7. Enter the beneficiary's share of other add-backs/deductions.

Line 8. Total distributive share of modifications (add lines 1 through 7).

Line 9. Add Part 3, line 11, to Part 4, line 8. If you are passing through pass through entity tax, carry this amount to Schedule PTET, Column D. If the beneficiary is a nonresident of Indiana, carry this amount to Schedule Composite, Column C, or to Schedule Composite-COR, Column B. See IT-41 instructions for further information.

Instructions for Completing Schedule PTET

An estate or trust cannot elect to be subject to PTET. However, an estate or trust can pass through PTET that is paid by another pass through entity such as a partnership or S corporation.

Check the box for no Schedule Composite tax due if the PTET is greater than the combined state and composite tax for all beneficiaries listed on the Schedule PTET and who otherwise would be listed on Schedule Composite. The determination for each beneficiary must be made separately. If a beneficiary would owe composite tax except for the application of an exception code, all nonresident beneficiaries who would otherwise be listed on Schedule Composite will be required to be listed on Schedule Composite.

Example 1. Trust A has two individual beneficiaries, Individual B, who is an Indiana resident, and Individual C, who is an Illinois resident. Each beneficiary has \$10,000 of Indiana-source income

and PTET of \$315 from Partnership D. Individual C would otherwise have a \$315 liability for composite tax, while Individual B would not be listed because Individual B is an Indiana resident. Trust A can check the box and not file Schedule Composite.

Example 2. Same facts as Example 1 except Individual C also has a \$100 composite county income tax. Trust A cannot check the box and must file Schedule Composite to list Individual C and to report the \$100 county tax.

Example 3. Same facts as Example 1 except Individual B is an Ohio resident and Individual C also has a \$100 composite county income tax. Trust A cannot check the box and must file Schedule Composite to list Individual C and to report the \$100 county tax. Individual B also must be included on Schedule Composite even though the PTET will equal Individual B's composite withholding tax.

Check the box for no Schedule Composite-COR tax due if:

- You have no corporate partners that would be listed on Schedule Composite-COR (in other words, no nonresident entities treated as regular C corporations, nonprofits, or financial institutions), or
- You have no corporate partners for whom the PTET would exceed the tax reportable on Schedule Composite-COR if no PTET election had been made. If the tax reportable on Schedule Composite-COR would be greater than the tax on Schedule PTET except for use of an exception code, then you are required to use Schedule Composite-COR in addition to Schedule PTET.

For the computation code box, you must enter one of the following codes. If you are attaching multiple sheets, the same computation code must be used on all sheets.

- 07 - Resident beneficiaries have their income determined before apportionment, and the tax is equal to or less than the beneficiary's share of income times the individual tax rate for all beneficiaries.
- 08 - Resident beneficiaries have their income determined after apportionment, and the tax is equal to or less than the beneficiary's share of income times the individual tax rate for all beneficiaries.
- 09 - There are no resident beneficiaries, and the tax is less than or equal the beneficiary's share of income times the individual tax rate for all beneficiaries.
- 10 - Resident beneficiaries have their income determined before apportionment, and for at least one beneficiary the tax exceeds the beneficiary's share of income times the individual tax rate.
- 11 - Resident beneficiaries have their income determined after apportionment, and for at least one beneficiary the tax exceeds the beneficiary's share of income times the individual tax rate.
- 12 - There are no resident beneficiaries, and for at least one beneficiary the tax exceeds the beneficiary's share of income times the individual tax rate.

If you use Codes 9 or 12, and a beneficiary is later determined to be a resident, you may make a one-time determination as to whether to elect to treat the beneficiary as subject to tax on the beneficiary's share of income before or after apportionment.

Instructions for Each Column

If you have more than 21 owners, attach additional sheets using Schedule PTET. Use the same computation codes on all sheets.

Identification Number. If the owner is an individual, list the individual's social security number or individual taxpayer identification number. If the owner is a partnership, estate, trust, or corporation, list the entity's FEIN. List the entire nine-digit code.

Column A – State of residency. Enter the two-digit postal code for the owner's state of residence. If the owner is a resident of a foreign country, enter "FC".

Column B – Entity type. Enter the two-digit code associated with the entity. Those entity types are:

Code	Entity Type
01	Resident Individual
02	Resident C corporation
03	Resident Financial institution
04	Resident Nonprofit corporation
05	Resident S corporation
06	Resident Partnership
07	Resident Estate/trust other than ESOP or retirement plan
08	Retirement plan/employee stock option plan
21	Nonresident Individual
22	Nonresident C corporation
23	Nonresident Financial institution
24	Nonresident Nonprofit corporation
25	Nonresident S corporation
26	Nonresident Partnership
27	Nonresident Estate/trust other than ESOP or retirement plan
28	Nonresident Retirement plan/employee stock option plan

Column C – Adjusted gross income. Enter the adjusted gross income from Part 4, Line 9 of IT-41 Schedule IN K-1.

Column D – Pass Through Entity Tax. In general, multiply Column C by 3.15% (if your taxable year ends in 2023) or 3.05% (if your taxable year ends in 2024). However:

- If you use codes 07, 08, or 09, the tax can be equal to or less than the general computation. Enter the actual amount of tax credited to the beneficiary in Column D. The tax cannot be greater than amount generally computed.
- If you use codes 10, 11, or 12, the tax can be equal to or not equal to the general computation. Enter the actual amount of tax credited to the beneficiary in Column D.

If Column C is less than zero, do not enter an amount less than zero in Column D.

Enter the sum of all additional sheets reporting PTET on Line 22. Report the sum of all PTET on Line 23 and carry to Form IT-65, Line 6c.

Instructions for Schedule Composite/ Schedule Composite-COR

Any trust or estate that has beneficiaries who are nonresidents of Indiana must file a composite return and include all its nonresident beneficiaries. If you file Schedule PTET and check the appropriate box(es), Schedule PTET will be considered the composite return for the beneficiaries who otherwise would be required to be reported on Schedule Composite or Schedule Composite-COR.

Submit a Schedule Composite for all nonresident beneficiaries who are treated as:

- individuals
- estates or trusts
- partnerships
- S corporations.

Submit a Schedule Composite-COR for all nonresident beneficiaries that are treated as:

- regular C corporations
- nonprofit corporations
- financial institutions subject to tax under IC 6-5.5.

A trust or estate will be assessed a penalty of \$500 if it fails to file a composite return that includes all nonresident beneficiaries. For 2023 and later, the previous requirement of having positive adjusted gross income is no longer in effect. Thus, even if the beneficiary has negative Indiana adjusted gross income, the beneficiary must be listed.

The composite returns must be filed with and have the same due date as the trust or estate return. If the IRS allows the trust or estate an extension to file its tax return, the due date for its Indiana return is automatically extended for the same period, plus one month.

Filing Requirements for Schedule Composite/ Schedule Composite-COR

The following limitations and conditions apply to each beneficiary included as a member in the composite return:

- No deduction is permitted for carryover of net operating losses or capital losses;
- No personal exemption is permitted;
- No deduction is allowed for charitable contributions allowed or allowable pursuant to IRC Section 170;
- No credit is permitted for taxes paid to other states;
- No credit carryovers are permitted (except for those for whom an exception code has been claimed and a Schedule IN-COMPA has been completed); and
- All other credits that flow through to beneficiaries on a pro rata basis are limited to the beneficiary's state income tax liability. See the list of Pass-through Tax Credits.

The trust or estate filing a composite return is liable for the tax shown on the return. It is also liable for any additional tax, interest, and penalty as a result of a subsequent audit or examination. Any refund of state or county tax as a result of filing a composite return will be remitted directly to the trust or estate. The trust or estate should send a copy of the general Indiana filing requirements to each nonresident beneficiary.

Instructions for Completing Schedule Composite/ Schedule Composite-COR

Indicate the Social Security Number (SSN) or Federal Employer Identification Number (FEIN) of each nonresident beneficiary on the appropriate schedule. Subject to the limitations and conditions specified in the filing requirements, separately compute the state tax liability on the composite return attributable to each nonresident beneficiary. See Schedule CT-40PNR, page 2, at www.in.gov/dor/tax-forms/2023-individual-income-tax-forms to get the applicable county tax rate.

Note. The SSN of all nonresident individuals of reverse credit agreement states who are subject to and pay income taxes at rates equal to or greater than Indiana's individual income tax rate to the resident states must be listed on the Schedule Composite, but with the amount of withholding tax/credit for these beneficiaries listed as zero.

Column A. If a beneficiary has an exception where the beneficiary may not be subject to tax or may be subject to a reduced tax, enter the exception code applicable to that beneficiary. If no exception code applies to a beneficiary, leave the column blank. If an invalid code is entered, this will be treated as a blank code. If a code is entered into this column, compute the values for state and local income tax based on the proper amount of tax due rather than based on the default computation. For 2023, the codes 03 through 13 will require a signed IN-COMPA from the beneficiary. Failure to obtain and include a signed IN-COMPA will require the trust or estate to withhold as otherwise required under IC 6-3-4-12.

- Code 01 - Approved alternative arrangement. This is available only if DOR has approved an alternative withholding arrangement with the corporation responsible for paying the tax. You must maintain DOR's approval of the arrangement with your records as DOR can require you to provide it at a later date.
- Code 02 - Credit used to offset composite tax. If the beneficiary would have been entitled to claim a nonrefundable tax credit that flowed through from the trust or estate to reduce the beneficiary's income tax liability, the trust or estate may reduce the amount of composite tax by the beneficiary's share of such credit. Do not reduce the tax by more than the beneficiary's share of any credits that properly passed through to the beneficiary. Also, you may only reduce the tax by the amount of current year credit unless specifically permitted. Finally, you may not use this code to reduce composite tax for credits that did not flow through from the trust or estate.
- Code 03 - Employee Stock Ownership Plan Enter this code if the beneficiary is an employee stock option plan (ESOP).
- Code 05 - Insurance Company not subject to AGIT or FIT. If the beneficiary is an insurance company that is not subject to AGIT or FIT for the year in question, use this code. Use this code only if the insurance company has filed a timely election to be subject to Indiana gross premiums tax.
- Code 06 - Nonprofit Entity. If the beneficiary is an entity that is a nonprofit corporation or a retirement plan that is subject to Indiana adjusted gross income tax or financial institutions tax on only its unrelated business income AND the trust or estate knows that the income from the trust or estate would not be considered unrelated business income

to the beneficiary, enter this code. Do not enter this code if the trust or estate lacks actual knowledge of the character of the income in the beneficiary's hands or if the trust or estate knows that the income is unrelated business income to the beneficiary.

- Code 07 - Real Estate Investment Trust. Enter this code if the beneficiary is a real estate investment trust (REIT). However, do not enter this code if the REIT is a captive REIT required to add back its dividends paid.
- Code 08 - Real Estate Mortgage Investment Conduit. Enter this code if the beneficiary is a real estate mortgage investment conduit.
- Code 09 - Treaty-based exclusion. If a beneficiary is subject to a treaty-based exception from federal income tax, the scope of the treaty includes the income derived from the corporation, and the corporation has knowledge of the beneficiary's exemption, enter this code for the beneficiary.
- Code 10 - Passive activity losses. Enter this code if the beneficiary has passive income from the trust or estate that is offset by previously-disallowed passive losses. Do not reduce the income subject to tax by more than the passive loss reported as previously disallowed.
- Code 11 - Net operating losses. Enter this code if the beneficiary has an Indiana net operating loss carryforward that can offset the income in whole or in part. Do not reduce the income subject to tax by more than the net operating loss reported.
- Code 12 - Credits from other sources. Enter this code if the beneficiary indicates one or more credits that would reduce the tax liability. These should be either a carryforward credit regardless of source or a credit from a source other than the corporation. Do not enter a credit used to reduce tax using Code 02. In addition, the tax cannot be reduced by more than the credits reported by the beneficiary.
- Code 13 - Trust or estate reporting estimated tax. Enter this code if the beneficiary is a corporation registered with the Indiana Secretary of State as doing business in Indiana and the beneficiary indicates that it is remitting estimated Indiana taxes on its behalf.
- Code 14 - Entity has multiple tiers. If the trust or estate is part of a multi-tiered structure and has obtained written department consent for an alternative withholding arrangement, enter this code. The written consent of the department must be attached or otherwise made available upon department request.
- Code 15 - Beneficiary is an Indiana resident. Enter this code if the beneficiary is an Indiana resident and tax is reported as being withheld on behalf of the beneficiary. This withholding can occur directly or indirectly, such as withholding in a tiered pass-through structure.

Column B.

Schedule Composite – Enter the 2-character state of residency for each nonresident listed.

Schedule Composite-COR – Enter the Indiana adjusted gross income from Schedule IN K-1, Part 4, line 9.

Instructions for Schedule IT-40NOL and Carryforward Worksheet

A separate Schedule IT-40NOL must be used for each loss year.

Indiana Code 6-3-2-2.5 and 6-3-2-2.6 allow for a net operating loss (NOL) deduction from Indiana adjusted gross income. All loss years ending after January 1, 2004, and any existing NOL(s) carried over to a taxable year after this date must be recomputed by applying the amended provisions of this Act. Deductions for net operating losses that were incurred in taxable years ending before January 1, 2004, and carried back or forward and deducted in taxable years ending before January 1, 2004, are calculated under the law in effect for the year the NOL was incurred.

For tax years 2021 and later, itemized deductions are not permitted in determining Indiana net operating losses. In addition, if you have a net operating loss carryforward that was calculated in whole or in part using an itemized deduction, you must recalculate the net operating loss without the itemized deduction in order to determine the amount to be carried forward.

Important. In order to carry a pre-2004 Indiana NOL to tax year 2004 and beyond, you must:

- **Step 1.** Refigure the NOL using the new method on Form IT-40NOL revised R3/ 10-04, or after;
- **Step 2.** Reduce the refigured NOL by any amount previously used in any pre-2004 intervening year;*
- **Step 3.** Use any remaining NOL on line 17 of Carryforward Worksheet 2.

* The application of the NOL in the pre-2004 tax year(s) must conform with the rules that govern those years. Do not refigure the amount of deduction used in the pre-2004 tax years.

When to use an Indiana NOL

Carryback and carryforward years. Public Law 172-2011 amends IC 6-3-2-2.5 and IC 6-3-2-2.6. It provides that no Indiana net operating loss carryback claim may be filed after Dec. 31, 2011.

Example. Paul has an Indiana NOL for the 2010 tax year. Paul did not file an Indiana NOL carryback claim before Jan. 1, 2012. Therefore, he will have to carry the loss forward.

Note. This rule will have no impact on carryback claims filed before Jan. 1, 2012.

Example. Ross has a \$200,000 Indiana NOL for the 2010 tax year. In October of 2011 he carried this loss back to his 2008 and 2009 Indiana returns. He used \$75,000 of the loss in 2008, and \$100,000 of the loss in 2009. He has a \$25,000 loss available to be carried to tax year 2011.

Indiana NOLs may be carried forward for up to 20 years following the loss year (HEA 1316-2018(ss), Sec. 5).

Column C.

Schedule Composite – Enter the Indiana adjusted gross income from Schedule IN K-1, Part 4, line 9.

Schedule Composite-COR – Multiply the amount in Column B by 4.9% (.049).

Column D.

Schedule Composite – State Tax. Multiply the adjusted gross income by .0315 (.0305 for years ending in 2024).

Schedule Composite-COR – Enter total amount from Schedule PTET.

Column E.

Schedule Composite – Enter total amount from Schedule PTET.

Schedule Composite-COR – If Column C is greater than Column D, enter Column C minus Column D. Otherwise, leave Column E blank.

Column F. For individual beneficiaries only, multiply the Indiana adjusted gross income derived from the individual's principal place of business or employment by the county tax rate associated with the county reported on IN K-1, line 7. This rate is listed on Schedule CT-40PNR, which is located at www.in.gov/dor/tax-forms/2023-individual-income-tax-forms.

Notwithstanding any other requirement, a nonresident individual who is subject to Indiana county income tax on Schedule Composite (Column F) is required to file a nonresident individual income tax return, Form IT-40PNR, to report all sources of Indiana income.

Note. If the nonresident owner is also employed by the business, the business shall use the county reported on the owner/employee's WH-4 to determine whether or where withholding is required.

Example. Individual X, a nonresident of Indiana, is a 50% owner of a business that operates in St. Joseph County and Elkhart County. Individual X works at the business's St. Joseph County location. The business has \$200,000 in Indiana adjusted gross income, with 60% of the receipts derived from St. Joseph County and 40% from Elkhart County. Of Individual X's \$100,000 income, \$60,000 (\$100,000 x 60%) from St. Joseph County is subject to county income tax and withholding and the remaining \$40,000 from Elkhart County is not subject to county income tax.

Get Income Tax Information Bulletin #72 at www.in.gov/dor/files/reference/ib72.pdf for additional information.

Column G. Subtract Column E amount from Column D and add to amount from Column F. If Column E is greater than Column D, enter the amount from Column F. If the amount reportable is less than zero, leave Column G blank.

Note. A federal Schedule K-1 for each beneficiary is not required to be enclosed but must be made available for inspection upon request by DOR.

Note. If you potentially had a net operating loss for 2018 through 2021, please see the specific modifications for Line 2 related to those years and later.

Part 1 – Computation of Indiana NOL

Enter the loss year (this is the year in which the NOL occurred).

P.L. 81-2004, effective January 1, 2004, provides for an NOL deduction from Indiana adjusted gross income equal to the amount of a federal NOL, computed under IRC Section 172, for the taxable year, that is derived from sources from within Indiana, and adjusted for modifications under IC 6-3-1-3.5. The federal NOL for estates and trusts, which reflects the IRC Section 172 application, is computed on federal Schedule A from Form 1045.

Note. The use of Indiana modifications may result in an Indiana net operating loss even if there is no federal NOL.

Line 1. If you are a resident estate or trust, enter the amount from line 1 of Form IT-41. If you are a nonresident estate or trust, enter the amount from line 1 of IT-41 minus line 7 of Form IT-41.

Line 2. Enter the sum of certain Indiana add-backs and deductions here. The amount will be the 100-code add-backs minus the 600 code deductions. For years before 2023, the 100-series codes listed below will be reported on Line 2 of the IT-40NOL and the 600-series codes will be reported on Line 5 of the IT-40NOL. Please note the years specified for each code. If no year is listed, the modification is required for all years.

- Tax add-back – 100 (2023)
- Net operating loss carryforward – 101
- Lump sum distribution – 102 (2003-2015 only)
- Section 179 expense – 105
- Bonus depreciation – 104
- Deferral of business indebtedness discharge and reacquisition – 107 (2009-present)
- Qualified disaster assistance property – 110 (2009-present)
- Qualified refinery property – 111 (2009-present)
- Qualified restaurant property – 108 (2009-present)
- Qualified film or television production – 112 (2009-present)
- Qualified preferred stock – 113 (2009-present)
- Qualified retail improvement property – 109 (2009-present)
- Motorsports entertainment complex – 130** (2010-present)
- Qualified advance mining safety equipment – 126** (2010-present)
- Qualified environmental remediation costs – 121** (2010-present)
- Qualified leasehold improvement property – 129** (2010-present)
- Start-up expenditures – 131** (2010-present)
- Certain trade or business deductions based on employment of unauthorized alien – 132 (2011-2015)
- OOS municipal obligation interest – 137 (2012-present)
- Federal Repatriated Dividend Deduction Add-Back – 139 (2017-present)
- Excess federal interest (under IRC Section 163(j)) – 142 (2018-present)
- Add-back for Section 199A deduction – 144 (2018-present)

- 50% of certain meals deducted in determining AGI – 149 (2021-present)
- Modifications for Excess Business Losses – 151 (2023)
- Modifications from Excess Inclusion Income – 153 (2023)
- Specified Research and Experimental Expenses Add-Back – 154 (2023)
- Interest from U.S. government obligations – 610
- Qualified patent income exemption – 622 (2009-present)
- Government or civic group capital contribution deduction – 633 (2018-present)
- COVID-related ERC expense deduction – 634 (2021-present)
- Small Employer Health Insurance Premium Deduction – 639 (2023)
- Specified Research and Experimental Expenses Deduction – 641 (2023)
- Any other modification reported using Code 120 or Code 147 (2010-present for 120, 2020-present for 147). This includes, without limitation:
 - Excess business losses permitted for federal purposes but not Indiana purposes (2018-2020)
 - Any late-added modifications listed in this list for 2021 to present but which were required or permitted for 2020.

Note. Prior to completing line 3, you will need to complete Schedule A of IRS Form 1045.

Line 3. Add the following amounts from IRS Form 1045, Schedule A and enter on line 3:

- Any charitable deduction added into Line 1
- Any income distribution deduction added into Line 1
- Any exemption added into Line 1
- Line 9
- Line 17
- Line 21
- Line 22
- For nonresident trusts, any Indiana capital losses actually deducted for federal purposes and not reflected in the items above

Line 4. Enter the total of lines 1 through 3. If this number is greater than zero, enter 0.

Line 5. If you have a federal excess business loss for the current year, enter your excess business loss from IRS Form 461, line 16 as a negative number. If you have a federal net operating loss for the current year after determining excess inclusion income, enter the portion of federal net operating loss that equals your excess inclusion income as a negative number. If you have Indiana net operating losses as the result of the termination of an estate or a trust that can first be claimed by you in the current taxable year, enter the amount of those Indiana net operating losses as a negative number. Do not include any net operating losses carried forward from prior years.

Line 6. If you have a Code 151 or Code 153 adjustment, include that adjustment on this line. If Code 151 is a negative number, enter that amount as a positive number on line 6. If Code 153 is a negative number, enter that amount as a positive number on line 6. If Code 153 is a positive number, enter that amount as a negative number on line 6.

Line 7. Add lines 5 and 6. If line 7 is greater than 0, enter zero.

Line 8. Add lines 4 and 7. If this number is negative, this is your net operating loss available for carryforward. If this number is zero, you do not have a net operating loss.

Part 2 – Record of Indiana NOL Application

Column 1. List the year(s) to which you are carrying the loss.

Column 2. Enter the amount of Indiana AGI available to be offset from line 5 of the completed Carryforward Worksheet.

Column 3. Enter as a positive amount the Indiana NOL available for deduction from line 6 of the completed Carryforward Worksheet.

Column 4. Enter the amount from either line 7 or line 8 of the Carryforward Worksheet (only one of those lines will have an entry).

Column 5. Enter the amount from line 9 of the completed Carryforward Worksheet. This is your Indiana NOL deduction. Enter on IT-41, line 8.

Schedule IT-40NOL Carryforward Worksheet Instructions

A Carryforward Worksheet must be completed for each loss year. If you are carrying your loss forward for more than five years, modify the top of the column to show the year to which it is being carried.

Example. Modify Column A, ‘1st’ following year, to read ‘6th’ following year.

Before you begin. You must have a completed state tax return (not including the Indiana NOL deduction) for the intervening year(s) in which you are applying the loss.

Columns A – E. Enter in Column A information from the first year following the loss year. Enter in Column B information from the second year following the loss year. Complete the remaining columns accordingly.

Example. The loss year is 2009. Column A should reflect information from tax year 2010; Column B should reflect information from tax year 2011, and so on.

Intervening year. Year to which a loss is being carried.

Complete lines 1 through 5 of the Carryover Worksheet to figure the intervening year’s Indiana AGI.

Line 1. Enter the amount from line 1 of the intervening year’s IT-41.

Line 2. Net the following Indiana add-backs as reported on the intervening year’s return.

For tax years 2003 and beyond, add the 100-series modifications applicable for the taxable year. See the instructions for Line 2 of the IT-40NOL for a list of modifications.

If you reported any of the above on your 2012 tax return, and you utilized Option 2 to report them as a negative add-back on your 2013 return (using a 300-series 3-digit code number in lieu of filing an amendment for 2012), do not include these amounts on line 2 when 2013 is the intervening year.

Line 3. Add lines 1 and 2 and enter the result here.

Line 4. Enter the net of certain deductions as claimed on the intervening year’s return. See the list of 600-code deductions for Line 2.

Line 5 – Intervening year’s Indiana AGI. Subtract line 4 from line 3 (if less than zero, enter zero).

Line 6. NOL available for carryforward. Enter here the amount from Schedule IT-40NOL, Part 1, line 8 (enter as a positive amount).

- If this is the first time the NOL from Schedule IT-40NOL, Part 1, line 8, is being used, then enter the full amount here.
- If you have already used the NOL from Schedule IT-40NOL, Part 1, line 8, to offset income, then enter the remaining available loss here (from line 8 of the Carryforward Worksheet). See line 8 instructions.

Note. If you have a debt excluded from your gross income that was discharged by a Chapter 11 bankruptcy, a debt that was discharged while you were insolvent, or a discharged debt that was qualifying farm indebtedness, you will be required to reduce your net operating losses available for carryforward. Your loss reduction will equal the amount of the indebtedness listed above minus any portion of the indebtedness applied against basis, capital loss, and passive loss/credit attributes. This reduction is to be applied first against the current year net operating loss, then against loss carryforwards in the order in which they were incurred, from oldest to newest.

For resident estates and trusts, use the gross amounts of the attributes above. For nonresident estates and trusts, use the portion derived from Indiana sources. In addition, in the case of discharges from partnerships or S corporations, the insolvency rules are consistent with federal law.

Complete line 7 OR line 8 based on the following:

- If line 5 is greater than line 6, complete line 7.
- If line 6 is greater than line 5, complete line 8.

Line 7. If the line 5 intervening year’s Indiana AGI is greater than or equal to the line 6 NOL available for carryforward, then you will use all of the available NOL as a deduction. Subtract line 6 from line 5 and enter the difference here. Skip line 8 and complete line 9.

Line 8. If the line 6 NOL available for carryforward is greater than the line 5 intervening year’s Indiana AGI, then you will be able to offset the entire intervening year’s Indiana AGI and have

a reduced NOL available to carry to other years. Subtract line 5 from line 6 and enter the difference here and on line 6 in the next column.

Line 9. Enter the smaller of the amount on line 5 or line 6. This is your Indiana NOL deduction. Enter on IT-41, line 8.

Additional Information

If you need additional information, you may always contact us:

- On the internet at www.in.gov/dor
- By email at RPOIndividual@dor.IN.gov
- By telephone at 317-232-2067 Monday through Friday from 8:00 a.m. to 4:30 p.m.
- By fax at 317-615-2697, available 24 hours a day, 7 days a week
- By mail at: Indiana Department of Revenue, Fiduciary Section, P.O. Box 6079, Indianapolis, IN 46206-6079
- In person at any of our district offices. Our offices are open Monday through Friday from 8:00 a.m. to 4:30 p.m. To find the district office nearest you, go to www.in.gov/dor/contact-us/district-office-contact-info.

To find more information on the IT-41 and get answers to frequently asked questions, go to www.in.gov/dor/tax-forms/fiduciary-income-tax-forms.



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