

Income/Franchise:

Indiana DOR Addresses Nexus, Combined Filing and Business Income Under Financial Institution Tax

Letter of Findings 18-20210085, Ind. Dept. of Rev. (3/2/22). In an administrative ruling, the Indiana Department of Revenue (Department) held that an auditor correctly excluded a financial institution from its affiliate group's combined Indiana financial institution tax (FIT) returns as the facts showed that the entity did *not* conduct financial business in Indiana during the years at issue and, as a result, lacked requisite Indiana nexus. In doing so, the Department explained that the entity did not maintain an office in Indiana or generate income from Indiana during the years at issue and that its Indiana activities were "de minimus." Furthermore, the Department reasoned that including the financial institution's losses incurred during the audit period "would not fairly represent the combined group's income attributable to Indiana for FIT purposes," and that the entity "has not met its statutory burden under IC § 6-8.1-5-1(c) of establishing that the audit's analysis and the subsequent assessment were wrong." The Department also agreed with the auditor that state FIT law does not provide a "business" versus "nonbusiness" income classification distinction and therefore a subsidiary's position to the contrary and attempt to exclude certain "nonbusiness income" from the sale of stock from its Indiana FIT base was erroneous. Please contact us with any questions.

URL: <http://iac.iga.in.gov/iac/20220302-IR-045220063NRA.xml.pdf>

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