

IT 95-74

Tax Type: INCOME TAX

Issue: Income Earned in Illinois/Individual Residency

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE) Docket No.
OF THE STATE OF ILLINOIS) SSN
v.)
XXXXXX) John E. White,
Taxpayer) Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

SYNOPSIS: This matter is before the Department of Revenue's ("Department's") Office of Administrative Hearings as the result of XXXXX's ("taxpayer's") protest of the Department's Notice of Deficiency ("NOD"), issued on 1/10/95. The basis of the NOD was the Department's determination that taxpayer failed to file a return for tax year ending 1992. At issue is whether the taxpayer was required to file a return with the Department as a resident of Illinois.

FINDINGS OF FACT:

1. Prior to hearing, taxpayer tendered a copy of his signed federal and Indiana income tax returns for tax year 1992.
2. The documents tendered by taxpayer show that he resided in Indiana during the tax year at issue.

CONCLUSIONS OF LAW: Pursuant to 904(a) of the IITA, a Notice of Deficiency is prima facie evidence of the correctness of the amount of tax and penalties due. 35 ILCS 5/904(a). The documents tendered by taxpayer in this matter, however, are sufficient to rebut the prima facie evidence of the Department. Because taxpayer was a resident of Indiana, and because residency was the only basis for the liability proposed, taxpayer was not required to file a return with the Department. Therefore, I recommend that

the Director cancel the liability proposed in the Notice of Deficiency.

Administrative Law Judge

Date Entered