

IT 07-1

Tax Type: Income Tax

Issue: Federal Change (Individual)

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

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THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS

v.

*JANE DOE*,

Taxpayer

No. 05 IT 0000  
SSN: 000-00-0000  
Tax Year: 2003

Mimi Brin  
Administrative Law Judge

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Sean Cullinan, Special Assistant Attorney General, for the Illinois Department of Revenue

**Synopsis:**

*Jane Doe* (hereinafter the "Taxpayer" or "*Doe*") filed, with the Illinois Department of Revenue (hereinafter the "Department"), an amended Illinois income tax return, IL-1040-X, for the tax year ending 2003 increasing her exemption for dependents from three (3) to four (4). The result was a claim for refund. The Department denied the claim, disallowing the additional exemption because taxpayer failed to show that the Internal Revenue Service (hereinafter the "IRS") had accepted the increase in claimed exemptions following taxpayer's filing of a 1040-X with them. A hearing was held in the matter whereat oral and documentary evidence was presented. Following a thorough review of the record, it is recommended that this matter be resolved in favor of the

Department, and in support of that recommendation, I make these Findings of Fact and Conclusions of Law:

**Findings of Fact:**

1. *Jane Doe* filed with the Department an amended Illinois income tax return, IL-1040-X, for the tax year ending 2003. Department Ex. No. 1 (LTR-405 Amended Income Tax Letter) (acknowledging receipt of 2003 Form IL-1040-X dated February 12, 2005)
2. Taxpayer had filed a 1040-X with the IRS for the same year; Taxpayer Group Ex. 1
3. As a result of the 1040-X, the taxpayer's adjusted gross income increased from \$41,613.00 to \$49,013.00. *Id.* (IRS Record of Account for tax period December 31, 2003)
4. As a result of the 1040-X, the number of exemptions allowed for the taxpayer for the 2003 tax year is 3. *Id.*

**Conclusions of Law:**

For the tax year ending December 31, 2003, taxpayer filed with the IRS an amended income tax return, 1040-X, wherein, among other things, her adjusted gross income increased from \$41,613 to \$49,013. Taxpayer Gr. Ex. 1 (IRS Record of Account for tax period December 31, 2003). Taxpayer subsequently filed an amended income tax return, IL-1040-X, with Illinois, claiming, *inter alia*, an additional exemption and a refund. The Department did not accept the increase in the exemptions claimed and denied the refund advising that the record from the IRS showed 3 exemptions allowed- the same number as originally filed.

Pursuant to section 204 of the Illinois Income Tax Act, 35 **ILCS** 5/101 *et seq.* (hereinafter the “IITA”), the determination with respect to the allowance of deduction for personal exemptions in Illinois is based on the federal Internal Revenue Code, 26 U.S.C.A. § 1 *et seq.* (hereinafter the “IRC”), specifically section 151 therein. For this reason, instructions for the IL-1040 require that the number of personal exemptions claimed in Illinois be the number claimed for federal 1040 purposes. See Form IL-1040 instructions, 2003, pp. 12-14.

Ms. *Doe* provided a copy of her federal income tax record for the subject year. Taxpayer Ex. No. 1. Her “Record of Account” from the IRS provides that she filed an amended tax return for 2003, and that as a result thereof, her adjusted gross income increased to \$49,013 and she had 3 personal exemptions. Despite a review of the IRS tax record, it cannot be determined that, although Ms. *Doe*’s IRS account still shows 3 exemptions claimed, the IRS record is incorrect. Since Illinois law bases allowable personal exemptions for its purposes on what is accepted by the IRS, Illinois cannot accept an additional exemption as provided by this taxpayer on her IL 1040-X. As sincere as this taxpayer is in her position that she is entitled to an additional exemption, and as convinced as she is that the IRS accepted her 2003 amended return claiming an additional exemption, the IRS records do not support her position. Illinois is, simply, legally bound by that IRS Record of Account.

WHEREFORE, for the reasons stated above, it is recommended that the Department’s denial of Ms. *Doe*’s claim for refund be affirmed.

Date: 12/19/200606

Mimi Brin  
Administrative Law Judge