

General Information Letter: Income shown on a return filed with a state that imposed no income tax liability on the taxpayer is not includable in double-taxed income.

September 14, 2007

Dear:

This is in response to your undated letter, which we received on May 15, 2007. I apologize for the delay in responding. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

I have been corresponding with Mr. Z, Revenue Tax Specialist II (IDOR, Springfield), regarding the calculation of the Illinois credit for tax paid to other states on behalf of the taxpayer, Mr. Y. Mr. Z indicated that I could refer this issue to you for your analysis.

The taxpayer received a notice disallowing STATE source income reported in Column B. of Illinois Schedule CR. We believe that the income reported on this schedule for STATE has been subject to tax in STATE as well as Illinois and has been properly reported on Schedule CR. Please refer to the enclosed letter stating the Illinois authority for this position originally sent to the Illinois Department of Revenue on September 13, 2006.

We have also utilized Illinois Publication 111 for the state of STATE to compute the appropriate income to be reported on Schedule CR, Column B and the tax associated with this income on Schedule CR, Column C. Please see the enclosed Schedule CR and pages one and two of the STATE tax return.

We believe Illinois Schedule CR to be correct as reported for the state of STATE.

Response

Section 601(b)(3) of the Illinois Income Tax Act (35 ILCS 5/601) provides, in part:

The aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by subsections 201(a) and (b) of this Act shall be credited against the tax imposed by subsections 201(a) and (b) otherwise due under this Act for such taxable year. The aggregate credit provided under this paragraph shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year. (emphasis added)

The copy of the 2005 STATE income tax return attached to the Schedule CR you included with your letter shows that no STATE income tax was due for that year because a credit reduced the liability to zero. Because no STATE income tax was due, the income reported on that return was not subject to

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tax by both Illinois and STATE, and it should not have been included in the computation of the limiting ratio referred to in the underlined language of the statute quoted above.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax