

General Information Letter: Illinois residents working abroad remain taxable on income from all geographic sources.

August 1, 2008

Dear:

This is in response to your letter dated June 25, 2008 in which you state the following:

My name is Mr. Z and I am about to begin work for the EMPLOYER as a member of the SERVICE1.

I would like to request a Private Letter Ruling (PLR) regarding my tax responsibilities as an officially domiciled resident of Illinois who will not ordinarily be resident in the state at any time during the year.

You see, my permanent address is at my mother's home in Illinois (I do not own property in Illinois or elsewhere), so I intend to declare Illinois as my official residence when submitting my employment paperwork (I-9, W-4, etc.) to my employer, the EMPLOYER, for tax/voting/drivers license purposes.

However, given that I will actually be assigned overseas for work on official U.S. Government business (much like a member of the SERVICES2) how will my income be treated for Illinois tax purposes? Will I have to pay income tax in Illinois for income that I earn living and working overseas on behalf of the U.S. Government, or will I be eligible for some type of credit/exemption/refund as an officially domiciled, non-resident of Illinois when I file my return at the end of the year?

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill. Adm. Code §1200, or on the website <http://www.tax.illinois.gov/LegalInformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics and are therefore not binding on the Department.

Section 201(a) of the Illinois Income Tax Act ("IITA"; 35 ILCS 5/101 et seq.) imposes a tax measured by net income "on the privilege of earning or receiving income in or as a resident of this State." According to Section 1501(20) of the IITA, the applicable definition of a "resident" is defined as

- (A) an individual (i) who is in this State for other than a temporary or transitory purpose during the taxable year; or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year.

In addition, Section 100.3020 of the Illinois Administrative Code ("IAC") discusses residency in greater detail. For example, Section 100.3020(d) focuses upon the taxpayer's "domicile" in determining residency for Illinois Income Tax purposes:

- (d) Domicile. Domicile has been defined as the place where an individual has his true,

fixed, permanent home and principal establishment, the place to which he intends to return whenever he is absent. ... An individual can at any one time have but one domicile. If an individual has acquired a domicile at one place, he retains that domicile until he acquires another elsewhere.

Based on the facts outlined in your letter, you will continue to be an Illinois resident while working abroad as a member of the SERVICE. As a result, you shall continue to file Illinois income tax returns and all income sources (or deductions) will be allocable to Illinois pursuant to IITA Section 301(a).

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. 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 the enclosed copy of Section 1200.110(b).

Sincerely,

Heidi Scott
Staff Attorney -- Income Tax