

General Information Letter: A report of a change to a trust's federal taxable income must be filed within 120 days after the change becomes final, and a refund claim based on that change may be filed at any time within 2 years after the date the report is due.

August 4, 2009

Dear:

This is in response to your letter dated April 8, 2009 in which you state the following:

This letter constitutes a protective claim of refund for the following taxpayer:

Name: TRUST
Address: STREET

FEIN #: XX-XXXXXXX

The grounds for this claim are due to the fact that TRUST invested in an entity that is being investigated for alleged fraudulent activity during 2005. The amount of the impact is not quantifiable at this time. As such, the taxpayer would like to preserve the right to amend its 2005 tax return when this matter is resolved.

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/LegallInformation/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. GILs, however, are not binding on the Department.

There is no provision in the Illinois Income Tax Act ("IITA"; 35 ILCS 5/101 et seq.) that allows for a "protective claim" for refund. Your letter does not provide any details of the alleged fraudulent activity. Most likely such activity will affect your federal return as well as your Illinois return. If this is true, pursuant to IITA Sections 506(b) and 911(b)(1), a claim for refund based on a federal change may not be filed until such change has been agreed to or finally determined for federal income tax purposes. Taxpayers in this situation have 120 days from the date on which their federal income tax liability is adjusted or refunds are paid to notify the Department of Revenue of the adjustment, and will have two years from the notification due date to file their Illinois refund claims.

Enclosed please find a copy of the 2008 IL-1040-X for reference purposes only. When you are ready to file your amended Illinois return relating to the issue at hand, there will be an option such as the one found on the 2008 form under Step 1, Section E asking why you are filing an amended return. On the 2008 form, the first option is for an accepted federal change where taxpayers are required to fill in the date of such federal finalization.

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. Should you have additional questions, please do not hesitate to contact our office.

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Sincerely,

Heidi Scott
Staff Attorney -- Income Tax