

General Information Letter: Gain excluded from federal taxable income under IRC Section 1031 is excluded from Illinois base income.

May 8, 2002

Dear:

This is in response to your telephone request of May 8, 2002, in which you request a letter ruling. The nature of your request 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.revenue.state.il.us.

In our telephone conversation, you asked for written assurance that gain which is excluded from the gross income of an individual pursuant to Section 1031 of the Internal Revenue Code will not be subject to Illinois income taxation.

Response

Under Section 203(a)(1) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 *et seq.*), the computation of an individual's "net income" subject to Illinois income taxation begins with the individual's "adjusted gross income" as properly computed for federal income tax purposes. Various addition and subtraction modifications are then made pursuant to Section 203(a)(2) of the IITA, and the resulting "base income" is allocated or apportioned to Illinois and reduced by exemptions. See Section 202 of the IITA.

Section 203(h) of the IITA provides:

Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such taxable year.

Section 203 of the IITA has no provision that would require any gain excluded from gross income under Section 1031 of the Internal Revenue Code to be added back in the computation of base income. Accordingly, any gain excluded under Section 1031 of the Internal Revenue Code is automatically excluded from base income.

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