



Illinois Department of Revenue

Informational Bulletin

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Settlement Offer Withdrawn for Foreign Sales Corporations

To: All corporate income tax preparers

For information or forms...

- Call us at:
1 800 732-8866 or
217 782-3336
- Call our TDD (telecommunications device for the deaf) at:
1 800 544-5304
- Write us at:
 Illinois Department of Revenue
 P.O. Box 19044
 Springfield, IL 62794-9044
- Visit our web site at:
tax.illinois.gov
- Call our 24-hour Forms Order Line at:
1 800 356-6302

This bulletin is written to inform you of recent changes; it does not replace statutes, rules and regulations, or court decisions.

Effective immediately, the department will no longer offer a settlement to taxpayers in audit or litigation proceedings that have issues with the treatment of income due to Foreign Sales Corporations (FSC).

What is the history of the FSC issues?

On May 21, 2001, Income Tax Regulation Section 100.3380(e) became effective. The section provides specific guidance for the treatment of FCSs, including the application of the 80-20 test for determining if an FCS could be included in a unitary business group under the Illinois Income Tax Act, Section 1501(a)(27).

The department had previously issued guidance that was inconsistent with the published regulation. See Letter Rulings IT-91-0199(revoked) and IT-97-0017-PLR, for more information.

How did the department respond?

To settle disputes involving the issue of whether an FSC should be included or excluded from a unitary business group, the department offered to concede 70 percent of the tax liability

related to the specific issue for taxable years ending after December 31, 1989, and beginning prior to January 1, 1998. Additionally, any penalties associated with the issue would be abated.

How is the policy changing?

Effective immediately, the department is revoking the settlement offer. The department is under no obligation to determine the Illinois Income Tax liability of any taxpayer for any tax year in accordance with that offer, unless the liability was computed in accordance with the offer prior to March 1, 2006,

- ◆ on a Notice of Deficiency issued by the department; or
- ◆ in determining a refund or credit allowed by the department; or
- ◆ in a decision or settlement of an administrative hearing or court case; or
- ◆ in an assessment of deficiency.

Questions regarding the revocation of this policy should be directed to Legal Services at 217 782-7055.