

Illinois Practitioners' Meeting
Thursday, January 29, 2015
Answers to Questions Submitted in Advance

1. When filing amended returns, IDOR still requires the taxpayer to attach proof that the federal amendment was accepted by the IRS. In the case of pass-through entities (S Corporations, Partnerships, Trusts), and amended returns showing no payment or refund, no such letter of proof is issued by the IRS. IDOR instructions direct the taxpayer to “call the IRS or go to their website at www.irs.gov to request an account transcript” as proof of the acceptance.
 - a. Considering the highly publicized reduction of IRS resources, especially telephone service, this is putting a significant burden on the taxpayer, if he is even able to get through on the phone or internet, and mailed transcripts can take months to be processed and mailed.
 - b. For certain amended returns for older years, including those resulting from NOL and credit carryback claims, IRS transcripts may be unavailable or blank, and therefore unavailable—despite amended returns having been processed and accepted by IRS.
 - c. Most other states do not require proof of federal acceptance when the state amendment is a result of a federal amendment. The other states only require a copy of the federal amendment, carry back claim or IRS audit report be attached to the state amended return. Some states are even allowing e-filing of amended returns.
 - d. IDOR should consider dropping the requirement of attaching proof of IRS acceptance of the federal change, as well as the entry of the date IRS finalized.

Response:

The Department is aware of the many problems that arise in applying the federal change statutes, including the issues that arise in determining when a federal change is final when the change has no federal income tax consequences for the taxpayer, such as a change in operating income of a Subchapter S corporation, or when a federal change merely changes the amount an unused federal carryover, but does change an Illinois liability. In these situations, we try to be flexible in determining what proof is adequate to establish the change. However, in most situations, there is documentary evidence that the IRS has accepted or caused the change, and that evidence should be available to the taxpayer. It is common sense for the Department to request that documentation be provided by the taxpayer up front and not wait until a subsequent examination of the return to demand proof, when it may be more difficult for the taxpayer to obtain the proof,

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or to expend its resources reviewing other methods of proving a federal change before the taxpayer has shown that the easy methods of proof are not available. Also, the date of federal finalization is necessary to determine if the federal change return was filed in time to permit a refund or to allow exemption from late payment penalties.

2. Filing of ST-1 for registered wholesalers: Recently, we noted that a taxpayer was prevented by the MyTax.Illinois.gov from filing Form ST-1 to report a Use Tax liability. When the taxpayer phoned, the IDOR representative indicated that because the REG-1 filed by the taxpayer indicated "Wholesaler" and that sales tax is paid to the vendor for all purchases of property used or consumed in Illinois, there is no obligation to file Form ST-1. How does IDOR expect a taxpayer to pay Use Tax when an occasional vendor does not charge tax on the purchase?

Response:

Persons engaged in business as wholesalers (e.g., businesses that are not engaged in selling tangible personal property at retail, but make only nontaxable sales for resale) are not required to register as retailers with the Department and file returns on a regular basis. When purchasing tangible personal property for their own use and consumption, and not for resale, such wholesalers should pay tax to their suppliers. If their suppliers are not registered to collect and remit Use Tax to the Department, the wholesaler must self-assess and remit Use Tax to the Department. Under this circumstance, Section 10 of the Use Tax Act provides that a taxpayer not registered to file returns as a retailer must self-assess the Use Tax and file a return with the Department by the last day of the month following the calendar month in which any payment is made upon the selling price of the property. If a taxpayer's annual Use Tax liability does not exceed \$600, that taxpayer is authorized to file an annual return on or before April 15th of the year following the year the Use Tax liability was incurred.

If the wholesaler's obligation to self-assess and remit tax only occurs occasionally, tax should be remitted on Form ST-44, which can be filed electronically.

If the wholesaler's direct Use Tax liability is frequently recurring, the taxpayer must register with the Department for the purpose of self-assessing and remitting Use Tax. If already registered with the Department for any reason, the taxpayer must complete registration on a paper REG-1 form. If not yet registered with the Department, the taxpayer may complete the registration electronically. Responses provided on the REG-1 form enable the Department to

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establish the taxpayer's correct filing frequency. Once registered, the wholesaler will file an ST-1 form to self-assess and report Use Tax liability. This liability is reported in Step 5 ("Tax on Purchases") on the ST-1 form. Since no retail sales are made, the wholesaler is not required to complete Steps 1 through 4.

3. Why isn't this being held also in Springfield, or at least "telecast" throughout the state? There are CPAs located somewhere other than Chicago.

Response:

In past years, the Department has scheduled a Practitioners' Meeting in Chicago and Springfield, and on at least one occasion held a joint meeting with the Missouri Department of Revenue. This year, due to low attendance downstate and restrictions on travel, the Department will host only one meeting in Chicago, but it will be recorded and posted to the website for viewing by those unable to attend the Chicago meeting. CPE (but not CLE) credits will still be provided.

4. Why does it take the IL Department of Revenue so long to approve software for preparing their state income tax returns? I'm talking primarily about business returns, Form IL-1120, Form IL-1120ST and Form IL-1065. They typically have very few changes, and it usually takes until the third week of January before we get approval and can start filing IL business returns. Tax season is already compressed into 3½ months and by IL not being ready until then, that makes it less than 3 months. As a practitioner who prepares over 500 individual returns and another 100 corporation, partnership and fiduciary returns, that makes it extremely difficult. If they could just be ready for us to start filing the first week in January, and I don't know why they can't, it would help tremendously. We currently use the CCH ProSystems fx Tax program but I have previously used Ultra Tax and had the same problem, so I'm assuming it's universal.

Response:

We have had a substantial number of changes to our 2014 Business Income Tax Returns which impacts time frames for development and testing between IDOR and the software developers. Form IL-1023-C and Form IL-1000 have been eliminated for tax years ending on or after December 31, 2014. Form IL-1120-ST, Form IL-1065, Form IL-1041, Schedule B and Schedule D have been redesigned to accommodate these changes. Changes have also been made to the Schedule 80/20, Schedule M and Schedule UB. We also have a Schedule SA for Form IL-1120 and Form IL-1041 for fiscal year filers to utilize due to the tax rate changes after December 31,

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2014. Please refer to Informational Bulletin FY-2015-10 "What's New for Illinois Income Tax" for additional details regarding the changes.

We will also be reviewing our internal processes in 2015 to increase our processing efficiencies and improve how we can continue to work better with software providers, tax professionals and the business taxpayers.

In addition, in 2015 the Department is taking additional steps to protect taxpayers from identity theft and fraud, which includes both individual and business taxpayers. These additional measures will mean the processing time for taxpayers' returns and refunds will be slightly longer. Please be patient with us while we make changes to our systems. This has also created a delay of when we will start the electronic filing season this year for downloading returns from the IRS through the Modernized Electronic Filing System. The Department is taking these steps on taxpayers' behalf to ensure that their refunds go to them and not someone pretending to be them. Although forms, schedules and instructions for the 2014 Illinois Income Tax season are available now on our website, we encourage you to wait for the electronic filing options to become available. Even with the delay in availability, **taxpayers will still get their refunds faster if they file electronically.**

5. All my questions pertain to the Employee Classification Act 820 ILCS 185.
- a. Does this pertain to only contractors?
 - b. If it only applies to contractors and subcontractors, what about businesses that hire other self-employed personnel or partnerships?
 - c. If the contractor already files a Form 1099 on the subcontractor, is this Act a duplication of the information on the Form 1099?
 - d. Doesn't section 10, paragraph C eliminate most of the reporting under this Act?
 - e. Is this information in addition to the reporting of contractors to IDES?

Response:

The Department as defined in 820 ILCS 185/5 is the Department of Labor. All reporting by businesses and complaints are filed with the Department of Labor. We will attempt to address the questions, but you may wish to contact the Department of Labor with specific questions. IDOR is only addressed in 820 ILCS 185/74 Cooperation.

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- a. This Act only applies to contractors that engage in construction as defined in 820 ILCS 185/5.
- b. See 820 ILCS 185/43
 - (g) Nothing in this Section shall apply to a business primarily engaged in the sale of tangible personal property or a contractor doing work for a business primarily engaged in the sale of tangible personal property.
 - (h) Nothing in this Section shall apply to individuals or firms meeting the responsible bidder requirements of Section 30-22 of the Illinois Procurement Code.
- c. 1099s are not filed with the Department of Labor.
- d. This should be posed to the Department of Labor.
- e. This Act addresses what is to be filed with the Department of Labor and does not govern any reporting requirements for IDES. Refer to IDES statutes for reporting requirements.

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