

General Information Letter: Response to COMMISSION survey on adoption by Illinois of model regulations and statutes.

May 17, 2007

Dear:

This is in response to Mr. Z's email dated March 18, 2007 in which he states the following:

Periodically, the COMMISSION surveys the tax and revenue agencies of each State to determine which, if any, of the COMMISSION model regulations, guidelines, or statutes your State has adopted, either in whole, or in part. We are again asking your assistance in this effort. To assist you in this survey, we enclose a response sheet that contains a list of COMMISSION's Model Regulations, Guidelines, and Statutes.

The first section of the response sheet contains the model regulations pertaining to general corporate income tax allocation and apportionment; the second section of the response sheet contains the apportionment regulations for specific industries:

Reg. IV.18 (d)	Construction Contractors
Reg. IV.18 (e)	Airlines
Reg. IV.18 (f)	Railroads
Reg. IV.18 (g)	Trucking Companies
Reg. IV.18 (h)	Television and Radio Broadcasting
Reg. IV.18 (j)	Publishing
	Financial Institutions

We are also requesting your assistance in providing the same information concerning the:

- ?? Model Recordkeeping and Retention Regulation,
- ?? Model Direct Pay Permit Regulation,
- ?? Provision for the Collection of Tax on Fundraising Transactions.

Please also advise us regarding your State's adoption of the following COMMISSION Model Statutes:

- ?? The recommended formula for the apportionment and allocation of net income of financial institutions,
- ?? ABA Model S Corporation Income Tax Act (MOSCITA),
- ?? the Uniform Protest Statute,
- ?? Uniform Principles Governing State Transactional Taxation of Telecommunications, either the Vendor Version or the Vendee Version,
- ?? Applicability of Sales and/or Use Tax to Sales of Computer Software,
- ?? Uniform Recommendation Defining the Presence of a Funeral Trust – Statutory or Regulatory Provision,
- ?? Sales and Use Tax Priority – Construction Inventory,
- ?? Sales and Use Tax Priority – Leasing Transactions
- ?? Uniform Wireless Database Format,

- ?? Factor Presence Nexus Standard for Business Activity Taxes,
- ?? Uniform Statute for Reporting Federal Tax Adjustments with Accompanying Model Regulations,
- ?? Statutory Language on Reporting Options for Non-resident Members of Pass-through Entities With Withholding Requirements,
- ?? Model Statute for Combined Reporting
- ?? Model Statute on Compilation State Tax Return Data,
- ?? Model Statute Requiring the Add-back of Certain Intangible and Interest Expenses,
- ?? Model Statute on Disclosure of Reportable Transactions
- ?? and the Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States Under Public Law 86-272. Phase I refers to the guidelines adopted in 1993 and Phase II refers to the revisions adopted in 1994.

Please note whether, in your judgment, your State has adopted the identified COMMISSION uniformity regulation, guideline, or model statute. If your state has adopted the item, please reference the applicable law, regulation or other official action.

If your state has formally adopted the identified model regulation, guideline, or statute listed below, please note yes in the box marked Adopt COMMISSION Regulation. If your state has formally adopted the identified model regulation, guideline, or statute listed below, but there are **minor changes**, you can mark the "Adopt COMMISSION Regulation" box: "substantially." Again please reference the applicable law, regulation or other official action.

If your state has formally adopted the identified model regulation, guideline or statute listed below, but with **substantial changes**, you can mark the "Adopt COMMISSION Regulation" box: "With changes." Even in this case, please reference the applicable law, regulation or other official action. Additionally, please also note on a separate sheet of paper the substantial changes your State made in its adoption.

If your State has not adopted the identified model regulation, guideline, or statute listed below, you can mark one of the boxes marked "Reason for Not Adopting COMMISSION Regulation." If you have checked the box marked "Other," please explain it briefly in that box; or, on a separate page.

If you need to acquaint yourself with these regulations and guidelines, or need other assistance, please visit our website: <http://WWW>, or contact Mr. Y, Director of Policy Research: (XXX) XXX-XXXX (Phone), (XXX) XXX-XXXX (FAX), or EMAIL.

Please respond to Mr. Y at any of the above addresses. Thank you for your valuable assistance.

For further clarification, I wrote the following email:

The second page of your Memo keeps referring to the box marked "Adopt COMMISSION Regulation" but I don't have such a box on the chart that was sent. I only have 1) Applicable Code/Reg 2) Date 3) Changes to COMMISSION Language and

then 4 boxes for reasons for not adopting COMMISSION regulation. Which box am I supposed to write either "yes" "substantially" or "with changes"?

Your response was as follows:

My mistake. However, if you put in the applicable section of your revenue code, I will assume the regulation, etc., had been adopted. If there were changes to our language, I will leave it to your discretion were significant or minor. Thanks!

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

Our responses are attached on the form that accompanied your letter. Substantial changes which are noted by the words "with changes" in the third box on your chart are listed below with the corresponding COMMISSION regulation.

IV.2.(c): Unlike the COMMISSION Regulation regarding Consistency and Uniformity where a taxpayer must disclose the nature and extent of modifications from year to year in classifying business or nonbusiness income, in Illinois once a taxpayer "elects" to treat all income other than compensation as business income, this election is irrevocable.

IV.9. through IV.14: For taxable years ending on or after December 31, 2000, Illinois no longer follows the COMMISSION 3-factor apportionment formula; instead, Illinois' apportionment is based solely on the sales factor.

Uniform Protest Statute: Taxpayer may file a written protest within 60 days after the issuance of a notice of deficiency. Unlike the COMMISSION Uniform Protest Statute, there is no penalty when a taxpayer files a frivolous protest.

Disclosure of Reportable Transactions: IDOR regulations provide exceptions to the general requirement of disclosure and a section regarding a few special rules for certain taxpayers. IDOR does not follow the variety of penalties listed in the COMMISSION Model Statute on Disclosure of Reportable Transactions.

Statement of Information Concerning Public Law 86-272: Please see enclosed Illinois Nexus Regulation, specifically 86 Ill. Adm. Code §100.9720.

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