

General Information Letter: Illinois does not tax early withdrawals from 401(k) plans.

October 18, 2010

Dear:

Your letter dated August 26, 2010, has been forwarded to me for consideration. 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. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

I just received from my 401K:

Total: \$41,163.30

Federal Withholding: \$8,232.66

Please let me know how much and when I will have to pay state tax.

I was born on June 10, 1944

My stats on 2010 tax year are the same as 2009.

### **Response**

Withdrawals from Internal Revenue Code Section 401(k) plans are not subject to Illinois income tax.

Under Section 203 of the Illinois Income Tax Act (35 ILCS 5/203), the computation of an individual's "net income" taxed by Illinois begins with the taxpayer's federal adjusted gross income, as properly computed for the taxable year. Various addition and subtraction modifications are then made, and the resulting "base income" is then allocated and apportioned to Illinois. Section 203(h) of the Illinois Income Tax Act provides that no modification may be made to taxable income or adjusted gross income unless expressly provided in Section 203 of the Illinois Income Tax Act.

Section 203(a)(2)(F) of the Illinois Income Tax Act allows an individual to subtract from his or her federal adjusted gross income:

An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code.

Withdrawals from Internal Revenue Code Section 401(k) plans are included in federal adjusted gross income to the extent provided in Internal Revenue Code Section 402(a). Accordingly, in computing your net income subject to Illinois tax, you are allowed to subtract any withdrawal from an Internal Revenue Code Section 401(k) plan that is included in your federal adjusted gross income.

As stated above, this is a general information letter which does not constitute a statement of policy

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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