

General Information Letter: Taxpayers may elect to apply overpayments against their estimated income tax obligations only on original returns, and only to apply the overpayment against the following year's obligations.

March 2, 2011

Dear:

This is in response to your letter to Director of Revenue Brian Hamer, dated February 25, 2011, which was forwarded to me for response. 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.

In your letter you have stated the following:

This letter is in reply to your department's Error Notification Response dated February 3, 2011, copy of which is enclosed.

The taxpayer, COMPANY, Inc., has an overpayment in the amount of \$1327.00 towards 2009 Form IL-1120-ST.

In a conversation with Revenue Tax Specialist Ms. Z, we were told it was not known when the taxpayer will receive a refund of his 2009 overpayment. Having already waited a year, a verbal request was made to apply the overpayment toward the 2010 Form IL-1120-ST liability for COMPANY, Inc. According to Ms. Z, the overpayment was already set for a refund check to be issued, it was no possible to apply the overage to the 2010 tax year.

The taxpayer DEMANDS his 2009 IL-1120-ST overpayment be applied to his 2010 tax liability. If your department is unable to do so, please provide the taxpayer with a copy of the State of Illinois code stating refunds cannot be applied to a future tax year.

As the March 15 deadline is rapidly approaching, please expedite the above as the taxpayer will be claiming this credit on his 2010 tax return.

Response

Section 909(b) of the Illinois Income Tax Act (35 ILCS 5/909) provides:

The Department may prescribe regulations providing for the crediting against the estimated tax for any taxable year of the amount determined by the taxpayer or the Department to be an overpayment of the tax imposed by this Act for a preceding taxable year.

Pursuant to the authority granted by this statute, the Department has adopted 86 Ill. Adm. Code Section 100.9400(b), which provides in part:

A taxpayer may elect to have any portion of any overpayment shown on a timely original

return applied against the taxpayer's estimated tax liability for the taxable year immediately following the taxable year for which the return is filed. (See IITA Section 909(b).) Such election shall be made on the form prescribed by the Department and, once made, shall be irrevocable.

Because the regulation allows the 2009 overpayment of the taxpayer to be applied against its 2010 estimated tax obligation only if the taxpayer has elected to do so on a timely original return for 2009, the taxpayer's request may not be honored.

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