

General Information Letter: Allowance of federal income tax refund claim based on exemption of income previously reported as taxable opens a new limitations period for Illinois income tax refund claims on the same basis.

July 2, 2012

Dear:

This is in response to your letter dated June 27, 2012, in which you request a letter ruling. 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:

Please tell me if the Illinois Dept of Revenue will allow the amendment and refund of income taxes of form IL-1040 for tax year 2006 under the recently passed federal law contained in the FAA Modernization and Reform Act which was signed into law on Feb 14, 2012. Sec. 1106 (copy enclosed) of this law allows the amendment and refund of personal income taxes (tax years 2003 to current) for certain "Qualified Airline Employees" who received "Qualified Airline Payments" received under approval of an order of federal bankruptcy. Also enclosed is an IRS article explaining the new law and its application and procedures to be followed to amend personal tax returns from closed years.

Does Illinois law mirror the federal law allowing the amendment of tax returns beyond the current statute of limitations under this federal regulation? I have a client that qualifies under this regulation and I have amended his 2006 Federal form 1040 to claim a refund of income taxes. Will I also be able to amend his IL1040 for tax year 2006 and get a refund of Illinois taxes for 2006 under these circumstances.

## **Response**

Section 1106 of the FAA Modernization and Reform Act (Public Act 112-95) provides that certain payments made by an airline to its employees by order of a bankruptcy court may be exempted from gross income to the extent "rolled over" into an individual retirement account within 180 days after the act became law. Employees have until at least April 15, 2013, to file federal income tax refund claims arising from such rollovers.

Under Section 203(a) 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 506(b)(1) of the Illinois Income Tax Act (35 ILCS 5/506) provides that a taxpayer must notify the Department of Revenue if:

the taxable income, any item of income or deduction, the income tax liability, or any tax credit reported in an original or amended federal income tax return of that person for

any year or as determined by the Internal Revenue Service or the courts is altered by amendment of such return or as a result of any other recomputation or redetermination of federal taxable income or loss, and such alteration reflects a change or settlement with respect to any item or items, affecting the computation of such person's net income, net loss, or of any credit provided by Article 2 of this Act for any year under this Act.

The so-called "federal change return" required by this provision must be filed within 120 days:

after such alteration has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, tentative carryback adjustment, abatement or credit resulting therefrom has been assessed or paid, whichever shall first occur.

Section 911(b)(1) of the Illinois Income Tax Act (35 ILCS 5/911) provides:

In any case where notification of an alteration is required by Section 506 (b), a claim for refund may be filed within 2 years after the date on which such notification was due (regardless of whether such notice was given), but the amount recoverable pursuant to a claim filed under this Section shall be limited to the amount of any overpayment resulting under this Act from recomputation of the taxpayer's net income, net loss, or Article 2 credits for the taxable year after giving effect to the item or items reflected in the alteration required to be reported.

Pursuant to these provisions, an airline employee who receives a refund of federal income taxes for any tax year under the provisions of the FAA Modernization and Reform Act may file a claim for refund of his or her Illinois income taxes, to the extent the refund results from the reduction to his or her federal adjusted gross income that generated the federal refund, at any time within 2 years plus 120 days after the date the federal income tax refund is received. For more details, see the instructions to the Form IL-1040-X, Amended Illinois Income Tax Return, on "federal changes."

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