

General Information Letter: Amounts included in federal taxable income in calendar 2011 are subject to Illinois income tax at the higher rates applicable to income accrued after December 31, 2010, even if the income was arguably attributable to periods before January 1, 2012.

August 29, 2012

Dear:

This is in response to your letter dated July 10, 2012. The nature of your letter and the information provided require that we respond with a General Information Letter (GIL). A GIL 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 accessed from the Department's web site at [www.Iltax.com](http://www.Iltax.com).

Your letter states:

Please see attached Illinois income tax return. We have received correspondence on this return. I have entered income on Schedule SA that was earned before 1/1/2011. This income is a Section 448 change that we were required by the IRS to make. This was done on the 12/31/2009 return. I believe that I prepared the Illinois 2011 return correctly, using Schedule SA to report this Section 448 income, as all Section 448 income was clearly earned before 1/1/2011.

I have attached the Final Notice of Tax Due, as well as the front page of the Federal 1120, clearly showing the Section 448 income. I have also attached the supplemental schedule showing the note on Section 448 income.

## **RULING**

Section 201(b)(9) of the Illinois Income Tax Act ("IITA" ; 35 ILCS 5/201(b)(9)) provides as follows regarding the corporate income tax rate:

In the case of a corporation, for taxable years beginning prior to January 1, 2011, and ending after December 31, 2010, an amount equal to the sum of (i) 4.8% of the taxpayer's net income for the period prior to January 1, 2011, as calculated under Section 202.5, and (ii) 7% of the taxpayer's net income for the period after December 31, 2010, as calculated under Section 202.5.

IITA Section 202.5 states:

(a) In general. With respect to the taxable year of a taxpayer beginning prior to January 1 of any year and ending after December 31 of the preceding year, net income for the period after December 31 of the preceding year, is that amount that bears the same ratio to the taxpayer's net income for the entire taxable year as the number of days in that taxable year after December 31 bears to the total number of days in that taxable year, and the net income for the period prior to January 1 is that amount that bears the same ratio to the taxpayer's net income for the entire taxable year as the number of days in that taxable year prior to January 1 bears to the total number of days in that taxable year.

(b) Election to attribute income and deduction items specifically to the respective portions of a taxable year prior to January 1 of any year and after December 31 of the preceding year. In the case of a taxpayer with a taxable year beginning prior to January 1 of any year and ending after December 31 of the preceding year, the taxpayer may elect, instead of the procedure established in subsection (a) of this Section, to determine net income on a specific accounting basis for the 2 portions of the taxable year:

(1) from the beginning of the taxable year through December 31; and

(2) from January 1 through the end of the taxable year.

The election provided by this subsection must be made in form and manner that the Department requires by rule, and must be made no later than the due date (including any extensions thereof) for the filing of the return for the taxable year, and is irrevocable.

(c) If the taxpayer elects specific accounting under subsection (b):

(1) there shall be taken into account in computing base income for each of the two portions of the taxable year only those items earned, received, paid, incurred or accrued in each such period;

(2) for purposes of apportioning business income of the taxpayer, the provisions in Article 3 shall be applied on the basis of the taxpayer's full taxable year, without regard to this Section;

(3) the net loss carryforward deduction for the taxable year under Section 207 may not exceed combined net income of both portions of the taxable year, and shall be used against the net income of the portion of the taxable year from the beginning of the taxable year through December 31 before any remaining amount is used against the net income of the latter portion of the taxable year.

The Department provides Schedule SA in order to implement the specific accounting election of subsection (b). The Instructions to Schedule SA state, in part:

The purpose of Schedule SA, Specific Accounting, is to provide a means for calculating your income and tax at separate rates, due to an income tax rate increase in the middle of the tax year. The Schedule SA allows you to figure your tax based on the specific accounting method.

IITA Section 201(b)(10) states:

In the case of a corporation, for taxable years beginning on or after January 1, 2011, and ending prior to January 1, 2015, an amount equal to 7% of the taxpayer's net income for the taxable year.

The starting point in calculating "net income" for purposes of Section 201 is generally the taxpayer's taxable income for federal income tax purposes. See IITA Sections 202 and 203. Therefore, in general, any item of income that is included or excluded in the computation of a taxpayer's federal

taxable income (whether by treaty or otherwise) is likewise included or excluded in the computation of the taxpayer's Illinois net income.

In this case, the taxable year of COMPANY, Inc. is its taxable year beginning January 1, 2011 and ending December 31, 2011. Therefore, the provisions of IITA Section 202.5 do not apply. There has not been a tax rate increase in the middle of your taxable year, and COMPANY should not have used Schedule SA to determine the portion of its income "earned" before January 1, 2011. Instead, under IITA Section 201(b)(10), all of the taxpayer's net income for its 2011 taxable year is taxed at the rate of 7%. Because the IRC Section 448 income is included as income for COMPANY'S 2011 taxable year, under IITA Section 201(b)(10) it is taxable at the 7% rate.

As stated above, this is a GIL. A GIL 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 have further questions regarding this GIL, please call (217) 782-7055.

Sincerely,

Brian L. Stocker  
Associate Counsel (Income Tax)