

IT 13-0008-GIL 06/27/2013 RESIDENCY/NONRESIDENCY

General Information Letter: Under 86 Ill. Adm. Code Section 100.3020(f)(2), an individual who was an Illinois resident in one year and, in the following year, spent 160 days in Illinois, 150 in Florida and 55 in Wisconsin would be presumed to be an Illinois resident in that following year.

June 27, 2013

Dear:

This is in response to your letter dated June 17, 2013, 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:

The new provision under the Administrative Code 100.3020(f) contains a possible ambiguity:

“f) Presumption of residence. The following create rebuttable presumptions of residence. These presumptions are not conclusive and may be overcome by clear and convincing evidence to the contrary.

1) An individual receiving a homestead exemption (see 35 ILCS 200/15-175) for Illinois property is presumed to be a resident of Illinois.

2) An individual who is an Illinois resident in one year is presumed to be a resident in the following year if he or she is present in Illinois more days than he or she is present in any other state.”

Is that one other state or all other states combined? (Note that state is singular in the section.) For example, a person spends 160 days in Illinois, 150 days in Florida and 55 days in Wisconsin. More days here than anywhere else but fewer here than elsewhere. They claim Florida residency. Does the presumption apply even though they live a majority of the year outside Illinois?

Response

In your example, the presumption applies because the person was present in Illinois more days than he was present in any other state during the year.

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.

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Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax