

Distributions from a qualified profit-sharing plan under IRC Section(a) may be subtracted from adjusted gross income whether or not rolled over into a Roth IRA.

August 4, 2015

Re: Rollovers of Profit Sharing Plan Distributions to Roth IRAs

Dear Mr. XXXX:

This is in response to your letter dated July 29, 2015, 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.

In your letter you have stated the following:

I have reviewed Publication 120, but do not find an answer to my question.

I have a client who is an Illinois resident. He is a participant in the COMPANY Profit Sharing Plan from COMPANY Inc. He has \$100,000 in his account. He desires to convert his account to a Roth IRA. He will claim the \$100K on his Form 1040 in 2015, and pay the income tax on that amount.

My question is whether this conversion is subject to Illinois Income Tax. Publication 120 says “you may subtract an IRA, including amounts rolled over to a Roth IRA”. However, it is not clear whether a rollover to a Roth from another type of plan is also an exclusion. If you convert a distribution from a profit sharing plan, or a 401(K) plan, is that also excluded from Illinois state Income tax?

Response

Section 203(a)(2)(F) of the Illinois Income Tax Act (35 ILCS 5/203) provides that, in computing his or her base income, an individual may subtract from 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, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto.

Your letter does not provide any details of the profit sharing plan. However, if it is a qualified profit-sharing plan under Section 401(a) of the Internal Revenue Code, distributions from the plan would be included in adjusted gross income of the beneficiary under Sections 402(a) or (c), whether or not the distribution is rolled over into a Roth IRA, and would therefore be subtracted under Section 203(a)(2)(F) of the Illinois Income Tax Act.

The provision in Publication 120, Retirement Income, quoted in your request is poorly worded. That statement refers to Section 203(a)(2)(W) of the Illinois Income Tax Act, which allows the subtraction of amounts included in adjusted gross income as the result of a conversion of an IRA to a Roth IRA. Compare the provision on page 5 of Publication 120, in the section entitled, "What must I attach to my Form IL-1040 when I subtract retirement income on Line 5?", which expressly refers to conversions of IRAs to Roth IRAs. Section 203(a)(2)(W) was added to the Illinois Income Tax Act because conversions are included in adjusted gross income under Section 408A(d)(3) of the Internal Revenue Code, rather than Section 408 of the Internal Revenue Code, and therefore could not be subtracted under Section 203(a)(2)(F) of the Illinois Income Tax Act.

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