

Group-term life insurance coverage over \$50,000 is considered part of AGI for purposes of calculating Illinois base income. (This is a GIL.)

April 2, 2019

Re: Illinois income tax

Dear Xxxx:

This is in response to your letter received March 11, 2019, in which you request information regarding Illinois income tax. 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.

Your letter states as follows:

Enclosed is a copy of a W-2 form that was received by one of my tax clients. Certain information has been blacked out. It is being enclosed so you can better understand the tax issue in question.

Wages of \$\$\$ is being reported in box#1. Wages of \$\$\$ is being reported in box #16. The difference between these two amounts is \$\$\$\$. This amounts to the premium related to "Group-term life insurance over \$\$\$" which has been reported in Box 12a, Code C.

The question is what is the proper amount of wages to report in box 16 for state wages? I believe the proper amount should be \$\$\$\$, the same amount which is being reported in box 1.

Following is some additional information:

1. The employee works entirely Illinois and therefore, it would seem appropriate to report the same amount in box#16 as has been reported in box#1.
2. Illinois tax form IL-1040, line 1, reports the "Federal adjusted gross income from your federal form 1040, line 7". Federal adjusted gross income will include wages of \$\$\$\$. There is no line on Schedule M of Illinois form IL-1040 which will allow someone to report a subtraction pertaining to the "Premium related to group-term life insurance over \$\$\$\$."
3. Illinois form IL-1040 now requires Schedule IL-WIT which reports the Federal Wages, Illinois Wages and Illinois income tax withheld for each W-2 and 1099 form. Reporting Illinois wages on this form which are different from federal wages may raise an audit question.

I have talked to this employer a couple of times to suggest that their reporting is incorrect. The employer disagrees. I talked to the Illinois Department of Revenue and they will not give a definitive answer. This has been an issue for over 15 years.

It would be nice to get a definitive answer in writing, which would, if appropriate, be presented to the employer.

Please contact me if you need additional information.

RULING

Section 201 of the Illinois Income Tax Act (“IITA”), 35 ILCS 5/101 et seq, imposes a tax measured by net income “on every individual, corporation, trust and estate ... on the privilege of earning or receiving income in or as a resident of this State. Such tax shall be in addition to all other occupational or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.”

Net income for Illinois income tax purposes is a taxpayer’s federal adjusted gross income (“AGI”). Accordingly, any sum properly excluded or deducted from income for federal purposes prior to the determination of AGI is effectively excluded from income for Illinois’ purposes. Likewise, any sum required to be included income for federal purposes prior to the determination of AGI is effectively included income for Illinois’ income tax purposes.

Section 79 of the Internal Revenue Code, 26 U.S.C. §79, generally requires that federal gross income shall include the cost of group-term life insurance on an employee’s life provided for part or all of a taxable year under a policy carried directly or indirectly by his or her employer; but only to the extent that such cost exceeds the sum of: (1) the cost of \$50,000 of such insurance, and (2) the amount (if any) paid by the employee toward the purchase of such insurance. IITA Section 203 provides for certain addition and subtraction modifications to arrive at a taxpayer’s Illinois base income. These modifications either add or subtract certain amounts of income from a taxpayer’s federal AGI. None of the modifications to AGI described in Section 203 include a subtraction modification for the taxable cost of an employee’s group-term life insurance over \$50,000. Since there are no federal or Illinois subtraction modifications available for such costs of group-term life insurance, this amount should be considered included income for Illinois’ income tax purposes.

The cost of group-term life insurance over \$50,000 needs to be reported on Form W-2, in Box 12a under Code C and included in the amounts reported in boxes 1, 3, and 5 of Form W-2. See Department of Treasury, Internal Revenue Service, *General Instructions for Forms W-2 and W-3*, page 10 (<https://www.irs.gov/pub/irs-pdf/iw2w3.pdf>). Form W-2, Box 16 is intended to be used to report wages for up to two states. See *General Instructions for Forms W-2 and W-3*.

In your hypothetical, the employee worked entirely in Illinois, meaning all wages listed in the supplied Form W-2, Box 1 were earned in Illinois. The amount reported in Box 12a under Code C, are considered wages and appear to be correctly included in the amounts reported in Boxes 1, 3 and 5. Therefore, since Box 16 is intended to include all wages earned in Illinois, you are correct in stating that the wages reported in Box 16 should match the wages reported in Box 1 and include the taxable costs for cost of group-term life insurance on an employee’s life reported in Box 12a under Code C.

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 regarding this letter, you may contact me at (217) 782-2844.

Sincerely,

Michael D. Mankowski
Associate Counsel (Income Tax)

