

Overpayments will be applied to pre-existing liabilities before being credited toward a current liability. (This is a GIL.)

May 6, 2020

Re: Illinois income tax

Dear Xxxx:

This is in response to your letter received March 28, 2020, in which you request additional information regarding Illinois income tax in response to the Department's May 10, 2019 General Information Letter, IT 19-0007-GIL. 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:

Please find attached a copy of the above-referenced letter, in which you thoroughly examined the policy of the State of Illinois when faced with a pre-existing deficiency of a taxpayer combined with a claim for a refund.

Please also find attached a tax return from a CORPORATION.

My question to you is:

Pp 874 -875, esp. lines 95-98, show an amount over paid (exact amount redacted).

Line 96 specifies an "amount of overpayment to be credited to next period"

Line 97 specifies an "Balance of Overpayment"

Line 98 "Amount of Overpayment to be Credited to Form CT-3m4m"

Line 99 Refund of Overpayment:

The remaining tax returns are similar except the last one actually claims a refund.

So my question is: if a pre-existing deficiency appeared when this tax return was filed would the State of [Illinois] disallow the requested credits on lines 96 and 98 and apply those amounts to the pre-existing deficiency?

In an email dated March 30, 2020, you stated:

I have decided not to include the actual tax returns referenced therein, because that causes problems with spam filters. Further, it suggests I am asking a question in a specific case, which is not true.

RULING

The Department cannot opine on tax forms from other states, however, I can answer your question based on the law in Illinois. The Illinois Income Tax Act does allow for a taxpayer to elect to credit an overpayment from one taxable year against the estimated tax for another taxable year.

Section 909(b) of the Illinois Income Tax Act, 35 ILCS 5/909(b), states, in part, as follows:

(b) Credits against estimated tax. The Department shall prescribe regulations providing for a taxpayer election on an original return, an amended return, or otherwise for the crediting against the estimated tax for any taxable year of the amount determined by the taxpayer or the Department to be an overpayment of the tax imposed by this Act for a preceding taxable year.

As of the date of this letter, Section 909 may be found here:

<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=003500050HArt%2E+9&ActID=577&ChapterID=8&SeqStart=13500000&SeqEnd=15700000>

Section 100.9400(b) of the Department's Income Tax Rules, 86 Ill. Adm. Code 100.9400(b), states, in part, as follows:

b) Credit Against the Estimated Tax. A taxpayer may elect to have any portion of any overpayment shown on an original or amended return for a taxable year applied against the taxpayer's estimated tax liability for a subsequent taxable year. (See IITA Section 909(b).) The election shall be made on the form and in the manner prescribed by the Department, must be made before the overpayment is refunded, and, once an election is made, the election may not be altered to reduce the amount credited or to change the taxable year to which the credit will be applied. After an election is properly made, the Department shall apply the amount of the overpayment against other liabilities of the taxpayer and apply only the balance (if any) of the overpayment against the taxpayer's estimated tax liability. (See IITA Section 909(a) and (b) and Section 2505-275 of the Department of Revenue Law .) If the Department applies a portion of an overpayment against a liability other than the estimated tax liability to which the taxpayer elected to apply the overpayment or refunds some or all of the amount that the taxpayer had elected to apply against its estimated tax liability, the Department shall issue a notice to the taxpayer stating the amount so applied and the liability against which the application was made, or the amount so refunded, and no penalty for late payment of estimated taxes under IITA Section 804(a) or for underpayment of tax under IITA Section 1005(a) shall accrue with respect to the amount so applied or refunded, if the full amount of the liability that was due as of the date the notice was issued is paid prior to the later of:

- 1) 30 days after the date the notice is issued; or
- 2) the unextended due date of the return for the year for which the estimated tax credit was requested or, in the case of the penalty for late payment of estimated taxes, the due date of the next estimated tax installment (if any) due after the date of the notice.

As of the date of this letter, Section 100.9400 may be found here:

<http://www.ilga.gov/commission/jcar/admincode/086/08600100BB94000R.html>

The instructions for the 2019 Form IL-1099 further elaborate on how a credit may be carried forward and applied to a future tax liability. The note on page 12 of the instructions, under the discussion of Line 64, specifies:

Your credit carryforward may be reduced by us due to corrections we make to your return, or to satisfy any unpaid tax, penalty, and interest due for this year or any other year. If we reduce your credit carryforward, it may result in a late-payment penalty in a subsequent year.

As of the date of this letter, the 2019 Instructions for the Form IL-1099, may be found here:

<https://www2.illinois.gov/rev/forms/incometax/Documents/currentyear/business/corporate/IL-1120-INSTR.pdf>

Thus, to answer your question, if a taxpayer with a pre-existing liability files a return requesting that a prior overpayment be credited toward a future liability, the Department will first apply the overpayment to the pre-existing liability. Any remaining credit will then be applied to the current liability.

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

cc: Daily File