

IT 26-0004-GIL 04/23/2026 Subtraction Modifications

Private foreign pensions do not qualify for the deduction for retirement income unless included in federal taxable income under Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code (This is a GIL.)

April 23, 2026

NAME
ADDRESS
EMAIL

Re: Tax deduction for a private pension funded from the United Kingdom

Dear: NAME

This letter is in response to your letter dated April 18, 2024, in which you requested information. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at <https://tax.illinois.gov/> to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL.

INQUIRY:

This letter is a request for a Private Letter Ruling with respect to the Illinois taxation of the current UK private pensions currently in receipt by myself and my wife. I understand that a ruling is allowable when the same issue affects spouses who file taxes jointly.

My SSN is XXX-XX-XXXX I file my taxes jointly with my wife NAME1 (SSN XXX-XX-XXXX).

I have seen this matter addressed in the GIL": IT-23-0015-GIL 08/03/2023 PENSIONS- FOREIGN PENSIONS" stating that some UK pensions governed by U.S tax treaty with the United Kingdom may qualify for the Illinois subtraction modification found in IITA Section 203(a)(2)(L), but have not found a definitive ruling.

Reason for Request

My wife and I are naturalized citizens of the United States, as well as holding citizenship of the United Kingdom. We have filed US taxes here jointly since YEAR. We have lived at our current address in Illinois since YEAR1.

Since DATE I have been in receipt of a private Pension relating to my time in employment by COMPANY in the United Kingdom for the period YEAR2- YEAR1. This pension is paid to me by my old UK employer, COMPANY, on a monthly basis. I have paid Illinois income tax on this pension income since YEAR3, but I believe this may have been in error

Similarly, my wife NAME1 has been in receipt of an COMPANY private pension since DATE1. and Illinois income tax has been paid on this income also. as part of our joint tax return.

As we are US residents. and non-resident in the UK, the Tax Treaty between the United Kingdom and the USA dictates that our United Kingdom pensions are taxable **In the US** in the same manner as a US-provided pension. In accordance with the UK-US tax treaty, no tax is deducted by the UK Revenue authority, leaving the full taxation of our UK pensions from COMPANY to fall to the US Federal Tax authorities.

My understanding is that Illinois does not tax retirement pensions, but I have not been able to find a definitive ruling that says Illinois either does or does not tax either private retirement pensions or Government funded pensions. paid from the United Kingdom. The GIL referenced above does state that both UK private pensions and UK Government funded State Pensions (ie UK equivalent of US Social Security) **may** be entitled to the deduction for Illinois Taxation purposes, hence this request for a Private Letter Ruling.

I am, therefore requesting a Private Letter Ruling on the Illinois tax treatment of our current private pensions from COMPANY for the current (2024) tax year and subsequent tax years. pending any changes to Illinois law, or to the expiration of the validity of such a ruling.

This is the first time I have submitted this request and, to the best of my knowledge the Legal Department has not issued a prior ruling on this matter. Nor is this matter the subject of an audit or any pending litigation.

I have included in the appendix to this letter specific answers to the eight questions as requested in **CHAPTER XXI: DEPARTMENT OF REVENUE, PART 1200 PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION, SECTION 1200.110 PRIVATE LETTER RULINGS.**

DEPARTMENT'S RESPONSE:

The determination as to whether or not pension payments are subtracted from AGI in the computation of Illinois base income depends upon how the benefits are treated federally which in turn depends upon how the benefits are categorized under the US-UK treaty and federal tax law. Whether or not a particular pension is subject to international treaty, or how that payment is to be treated under federal tax law, is not a determination made by the Illinois Department of Revenue.

35 ILCS § 203(a)(2)(F) provides as follows:

(F) 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;

26 USC §§401-408 address various concerns connected with taxation of employee trusts, exemptions, annuities, employee benefit plans for the benefit of overseas employees of affiliates of the employer who created that plan, and individual retirement accounts. Section 401 specifically refers to pension trusts "...created or organized in the United States and forming part of a ...pension...plan of an employer

for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this section....”

35 ILCS §203(a)(2)(L) provides as follows:

(L) For taxable years ending after December 31, 1983, an amount equal to all social security benefits and railroad retirement benefits included in such total pursuant to Sections 72(r) and 86 of the Internal Revenue Code;

Section 402 of the Internal Revenue Code deals with distributions from employee trusts exempt under Section 401(a) of the Internal Revenue Code, which provides an exemption for certain employee trusts “created or organized in the United States.”

Section 403(a) of the Internal Revenue Code deals with annuities described in Section 404(a)(2) of the Internal Revenue Code, which describes certain annuities purchased by employee trusts exempt under Section 401(a) of the Internal Revenue Code.

Section 403(b) of the Internal Revenue Code deals with annuities for employees of exempt organization.

Section 406 and 407 of the Internal Revenue Code deals with employee benefit plans under Section 401 that cover overseas employees of affiliates of the employer that created the plan.

Section 408 of the Internal Revenue Code deals with individual retirement accounts.

None of these provisions appear to apply to a retirement plan of a private employer in England, and the pension income would therefore not qualify for subtraction under IITA Section 203(a)(2)(F).

The Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation (a.k.a. UK-US Tax Treat (2001/2002) would appear to be the relevant treaty between the United Kingdom and the United States.

Article 1, paragraph 4 of that treaty provides as follows:

4. Notwithstanding any provision of this Convention except paragraph 5 of this Article, a Contracting State may tax its

residents (as determined under Article 4 (Residence)), and by reason of citizenship may tax its citizens, as if this Convention had not come into effect.

The Treaty discusses pensions, social security, annuities, alimony and child support in Article 17, and pension schemes in Article 18. The Technical Explanation of the Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains addresses the terms of the Treaty. Again, it is not the province of Illinois Department of Revenue to interpret international treaties and federal law. Lastly, Article 24 of the Treaty provides protection against double taxation.

In your April 17, 2024, letter, you indicated that both you and your wife are dual citizenship holders, being citizens of both the United States and the United Kingdom. You stated that you have resided in Illinois since at least 2003. You began receiving your pension from COMPANY on DATE, and your wife began receiving her pension from the same employer on DATE1.

The instructions for the IL 1040 for line 5 describe the rules for adjustments to ‘base income’ where pensions are backed out of Illinois taxable income. Foreign pensions are not included in the descriptions. The relevant instruction in IDOR Publication 120 relates to IL-1040 Line 5, that “[w]hat retirement income may I subtract on Form IL 1040, Line 5.....You may subtract the amount of any federally taxed portion (not the gross amount) including 401(k) plans reported on your U.S. 1040 or 1040-SR Line 5b. NOTE: a qualified employee benefit plan is defined in Internal Revenue Code (IRC) Sections 402-408. If you do not know whether your employee benefit plan is qualified check with your employer.”

The determination as to whether or not the taxpayer’s pension is a “qualified employee benefit plan,” as noted above, depends upon whether the pension fits within the framework provided in IRC 401, 402-408. The pension plan must meet these relevant statutory standards to possibly be considered exempt from taxation in Illinois.

I hope this information is helpful. If you require additional information, please visit our website at <https://tax.illinois.gov/> or contact the Department’s Taxpayer Information Division at 800-732-8866.

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Sincerely,

Javonna Ackerman
Associate Counsel (Income Tax)