

General Information Letter: Computation of income double-taxed by California and Illinois explained.

September 18, 2007

Dear:

This is in response to your letter dated August 15, 2007, which was forwarded to me for consideration. 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:

This letter is written in response to your notice (copy attached) to the above mentioned taxpayers. We have also included a complete copy of Illinois Form IL-1040, California Form 540 NR, and New York Form IT 203 for tax year 2006 as well as Form K-1 from COMPANY LLP. On the attached notice, the K-1 California sourced income was reduced from \$54,230 to zero. The income of \$54,230 was California sourced and as such should not be considered taxable in Illinois as well. Please adjust your records accordingly. If you have further questions, please forward any response to the taxpayer in writing.

On the Zs' Schedule CR attached to their Form IL-1040, they reported Illinois base income taxed by California in the amount of \$54,230. However, taxes paid to California were reported as zero. The Department reduced the amount of income taxed by California to zero, and made a corresponding reduction in the credit allowed.

The California Form 540 NR you enclosed shows taxable income of zero on Line 19, and no liability. This zero amount results from a subtraction of \$430,770 reported on Line 14 and also shown on Line 17, column B, of the Schedule CA as a subtraction related to partnership income.

### **Response**

Section 601(b)(3) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 *et seq.*) provides that:

The aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by subsections 201(a) and (b) of this Act shall be credited against the tax imposed by subsections 201(a) and (b) otherwise due under this Act for such taxable year. The aggregate credit provided under this paragraph shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.

For purposes of computing the "base income subject to tax both by such other state or states and by this State" (commonly referred to as "double-taxed income"), 86 Ill. Admn. Code Section 100.2197(b)(4)(B) provides:

An item of income is not included in double-taxed income to the extent it is excluded or deducted in computing the tax for which the credit is claimed.

The \$430,770 subtraction for partnership income claimed on the California return is an exclusion of that income from California taxable income. Accordingly, that amount must be excluded from double-taxed income, meaning that the amount of income that is double-taxed by Illinois and California reported on the Zs' Schedule CR should be zero. The adjustment made by the Department is correct.

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