

General Information Letter: Tax treatment of rental of condominium in determining federal adjusted gross income of the owner is generally followed in determining base income for Illinois income tax purposes.

July 22, 2008

Dear:

This is in response to your letter dated June 19, 2008 in which you request a letter ruling. The following is in response to your request with respect to Illinois income tax. Your request with respect to sales and excise tax has been referred to the Sales Tax Division and will be addressed by a separate ruling. The nature of your request and the information provided requires that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code § 1200.120(b) and (c), which may be accessed from the Department's web site at www.ILtax.com.

Your letter states as follows:

I am a dentist and operate a dental practice in Illinois. A few years ago I purchased a condominium on AVENUE on the north side of the City of CITY. My condo is located in a building consisting solely of condominiums and does not contain any retail establishments or other type of businesses. The building originally consisted of apartments, which then were converted to condominiums. My family and I used our condo for weekend visits to the city and often times for holidays such as Thanksgiving and Christmas. As my children got older they complained that the condo we owned was too small and they encouraged me to acquire a larger unit. A larger condo became available in the same building as my first unit and I purchased it.

My children have now gotten older with one currently entering college in the fall. They are no longer interested in accompanying my wife and I downtown. I now have the dilemma of owning both of these condos in a weak-housing market. When I acquired my second unit I was able to rent out my smaller unit for periods of one year or longer. During that time my family and I continued to use our second unit frequently.

The income and expenses from the rental income generated by my original condo were reported on my Federal and State Income Tax Returns. However, currently with the market the way it is and with the continued increase of monthly maintenance fees and real estate taxes the cost associated with owning both of these condos is becoming rather prohibitive. My solution will be achieved when I sell the units but until that time comes I will be looking for renters to assist me in covering my expenses.

My intention regarding renter(s) is to have someone long term so that I have a guaranteed income to pay the monthly expenses. However, until I have a tenant or two for each unit there might be a possibility that I can and would rent out my unit(s) for lesser periods of time i.e.: six months, one month or even possibly weekends.

My objective is to comply with all tax laws and the purpose of my letter to insure that I do so. I have telephoned the City of CITY and the person that I spoke to in their Revenue Department told me that I do not need to do anything different than I am doing now to be in compliance with CITY. I just want to confirm that I am in compliance with the State of IL and the IL Dept. of

Revenue. I am really not sure if any taxes besides IL Income Tax would be applicable.

I am currently not under audit or any type of investigation nor have I been contacted by anyone from the IL Dept. of Revenue. I have spent considerable time reviewing your web page and have reviewed numerous letter rulings but cannot find a letter detailing a circumstance similar to mine. I would therefore request a Private Letter Ruling for my specific situation.

I have reviewed the Hotel Operator's Occupation Tax Act but I feel that this Act doesn't apply to me because I am not engaged in the business of renting, leasing or letting rooms in a hotel.

I would therefore greatly appreciate a response to my request so that I am confident I am in compliance with any and all IL Laws. If you need any additional information please contact me and I will gladly respond.

You are correct that your rental activities have Illinois income tax implications. Section 201(a) of the Illinois Income Tax Act ("IITA" ; 35 ILCS 5/201) imposes a tax, measured by net income, upon every individual for the privilege of earning or receiving income in or as a resident of this State. The starting point in calculating "net income" for purposes of Section 201 is generally the individual's federal adjusted gross income properly reported for federal income tax purposes. Therefore, to the extent that your rental activities result in income or loss included in federal adjusted gross income, the same amounts are reflected in Illinois net income for Illinois income tax purposes. See Form IL-1040.

As stated above, this is a GIL. A GIL 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 have questions regarding this GIL you may contact Legal Services at (217) 782-7055. If you have further questions related to Illinois income tax laws, visit our website at www.revenue.state.il.us or contact the Department's Taxpayer Information Division at (217) 782-3336.

Sincerely,

Brian L. Stocker
Staff Attorney (Income Tax)