

General Information Letter: IITA Section 203(c)(3) permits the subtraction from base income of municipal bond interest deemed distributed to a charity under IRC Section 642(c).

July 24, 2009

Dear:

This is in response to your letter dated April 10, 2009 in which you state the following:

Enclosed is a copy of your letter dated February 19, 2009. We are also enclosing a copy of the related Form IL-1041 and Federal Form 1041.

Please accept our adjustment on Line 24 of \$215,615.

Hopefully we can better describe the deduction.

This trust is a charitable lead trust with a charitable deduction. It is unusual for charitable lead trusts to have municipal income. Under the new proposed IRS regs the charitable deduction is allocated across all tiers of income. Since this trust holds municipal income part of the charitable deduction was allocated to the municipal income – and not allocated to taxable income on the Federal Return. The distribution to charity should be allowed as a deduction on the state return.

The municipal income was distributed out to charity and not accumulated in the trust.

Although part of the charitable deduction was not allowed on the Federal Return, because it was allocated to municipal tax exempt income, the municipal allocation of the charitable deduction should be allowed as a deduction on the State Return.

If there is an alternative way to present the distribution/deduction on the return, please advise.

According to the Department of Revenue (“Department”) regulations, the Department may issue only two types of letter rulings: Private Letter Rulings (“PLR”) and General Information Letters (“GIL”). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill.Adm.Code §1200, or on the website <http://www.tax.illinois.gov/LegalInformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Section 203(c)(1) of the Illinois Income Tax Act (“IITA”; 35 ILCS 5/101 et seq.) provides that the computation of a trust’s net income subject to Illinois tax begins with the trust’s federal taxable income for the taxable year subject to certain specified addition and subtraction modifications detailed in IITA Section 203(c)(2). IITA Section 203(c)(2) states that the modifications are subject to the provisions of paragraph IITA 203(c)(3):

(3) Limitation. The amount of any modification otherwise required under this subsection shall, under regulations prescribed by the Department, be adjusted by any amounts included therein which were properly paid, credited, or required to be distributed, or permanently set aside for

charitable purposes pursuant to internal Revenue Code Section 642(c) during the taxable year.

You are correct that the CLT will be permitted to exclude the amount of federally tax exempt municipal income that was distributed to charity pursuant to IRC Section 642(c). According to IITA Section 203(c)(2)(A), the CLT must add back all amounts paid or accrued to the CLT during the taxable year to the extent excluded from federal taxable income on Line 7 of the 2007 Schedule M. IITA Section 203(c)(3) allows the CLT to subtract only the IRC Section 642(c) amount paid, distributed or permanently set aside for charitable purposes on Line 23 of the 2007 Schedule M. The instructions to the Illinois income tax forms will be amended to expressly provide for your situation in the future. Until that time, you should attach a copy of this letter to any return on which you claim this subtraction.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Heidi Scott
Staff Attorney -- Income Tax