

General Information Letter: Amount of addition modification related to new credit for employer contributions to IRC Section 529 plans is equal to the amount of the credit allowable, without reduction for carryovers to other years.

October 28, 2009

Dear:

This is in response to your request in our telephone conversation of October 23, 2009. 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 our conversation, you asked how to compute the adjustment to an employer's federal taxable income that is required when the employer claims an Illinois income tax credit for contributions made to an employee's college savings pool under Public Act 96-0193. Specifically, you had been told that, if an employer were to contribute \$2,000 to an employee's college savings pool so as to receive the maximum \$500 credit, the employer would have to add \$2,000 back to its federal taxable income in order to compute its Illinois net income for the year, and you asked if this interpretation is correct.

### **Response**

Section 218(a) of the Illinois Income Tax Act (35 ILCS 5/218), as enacted by Public Act 96-0193, provides:

For taxable years ending on or after December 31, 2009 and on or before December 30, 2020, each taxpayer who, during the taxable year, makes a contribution (i) to a specified individual College Savings Pool Account under Section 16.5 of the State Treasurer Act or (ii) to the Illinois Prepaid Tuition Trust Fund in an amount matching a contribution made in the same taxable year by an employee of the taxpayer to that Account or Fund is entitled to a credit against the tax imposed under subsections (a) and (b) of Section 201 in an amount equal to 25% of that matching contribution, but not to exceed \$500 per contributing employee per taxable year.

Section 218(c) provides that, if the amount of the credit otherwise allowable under subsection (a) exceeds the taxpayer's Illinois income tax liability for the year, the credit may not reduce the liability below zero, but the amount of credit in excess of the liability may be carried forward up to 5 taxable years.

Subparagraphs 203(a)(2)(D-22), (b)(2)(E-15), (c)(2)(G-15) and (d)(2)(D-10) of the Illinois Income Tax Act (35 ILCS 5/203), as enacted by Public Act 96-0193, provide that a taxpayer must add back to its federal taxable income (or, in the case of an individual, federal adjusted gross income):

An amount equal to the credit allowable to the taxpayer under Section 218(a) of this Act, determined without regard to Section 218(c) of this Act.

Pursuant to these provisions, an employer who claims a credit for a contribution made to an employee's college savings pool during a taxable year must add back to its federal taxable income or adjusted gross income an amount equal to the credit that it is allowed, without regard to the provision

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in Section 218(c) limiting the credit to the amount of pre-credit liability or to amounts carried over to the taxable year under Section 218(c). Accordingly, in your example, an employer who contributed \$2,000 for an employee would be required to add back \$500 to its federal taxable income or adjusted gross income, the credit allowable under Section 218(a).

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