Illinois Department of Revenue

FY 2005-11

What's New for Illinois Income Tax

Informational Bulletin

December 2004

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Director of Revenue

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To:

All Income Tax Preparers

This bulletin summarizes the 2004 Illinois Income Tax changes for both the individual and business income tax forms and schedules.

What changes have been made to the 2004 Illinois Income Tax forms?

The income tax forms include the following changes:

- "Business income" is now defined to mean all income that may be apportioned without violating the Constitution of the United States (see Public Act 93-0840). The new definition overrules recent court cases that had ruled that gain from disposition of an entire business or from property that previously had been used in a business is not business income. Also, if you reported income from an asset or activity as business income in a prior year, and report any income from that asset or activity as nonbusiness income in this year on this return, you must add back all the expenses from that business that you deducted in this year and in your two most recent tax years.
- You may not deduct some interest or "intangible expenses" (such as royalties, and losses on sales of intangible assets) from transactions with a taxpayer who would be a member of your unitary business group, but cannot be included because 80 percent or more of its business is conducted outside the United States (see Public Act 93-0840).

  The 80/20 company that receives the amounts will not be taxed on them. Schedule 80/20, Related-Party Expenses has been developed for the calculations of these modifications. See "What changes have been made to the 2004 Illinois Income Tax Schedules?" for more information.
- If you have a Line 3 addition or a Line 9 subtraction on Form IL-1040, Individual Income Tax Return, you must complete the new Schedule M, Other Additions and Subtractions. See "What changes have been made to the 2004 Illinois Income Tax schedules?" for more information.
- For Form IL-1120 filers, the subtraction provided by Public Act 91-205, for income received by an attorney-in-fact from an interinsurer or reciprocal insurer who has made an IRC, Section 835 election, expired on July 20, 2004. This subtraction is not allowed for tax years beginning on or after that date.
- Effective for tax years ending on or after December 31, 2004, any partnership that meets the requirements of "investment partnership" as defined in the IITA, Section 1501(a)(11.5) shall not be subject to replacement tax, and is not required to file Form IL-1065.
- The Replacement Tax Investment Credit that was scheduled to expire on December 31, 2003, was extended by the Illinois General Assembly through December 31, 2008. This credit is taken on Form IL-477, Replacement Tax Investment Credit.

  If you are a fiscal year filer that qualifies for the Replacement Tax Investment Credit, and you have already filed your return without claiming the credit, you should file an amended return and include Schedule IL-477, showing any credit that you are entitled to take.
- Any taxpayer that participates in potentially abusive tax avoidance transactions and must file a copy of federal form 8886, Reportable Transaction Disclosure Statement, with the IRS, must also attach a copy of form 8886 to their annual tax return and submit a separate copy to the tax shelter address listed in our instruction books.
- Form IL-4562, Special Depreciation, has not changed. However, if you are allowed a 50 percent bonus depreciation for federal purposes, you must add back that amount to your taxable income. The subtraction modification will be limited to 42.9 percent.
- For Form IL-1040 filers, the Illinois Veterans' Home contribution fund has been added to the voluntary contributions.

What changes have been made to the 2004 Illinois Income Tax schedules?

The income tax schedules include the following changes:

- Schedule 80/20, Related-Party Expenses, has been created as the result of new legislation that disallows deductions for interest or intangible expenses that you paid to an 80/20 company. The schedule provides calculations for
  - figuring the amount of deductions a domestic unitary member must add back to its income;
  - allowing the domestic unitary member to figure the correct amount of allowable, valid deductions; and
  - allowing any 80/20 company with an Illinois filing requirement to take a deduction for the expenses on which the domestic company is being taxed
- Schedule J, Foreign Dividends, has been changed to include deductions for dividends received by a corporation from a foreign corporation, that receive special treatment under the American Jobs Creation Act of 2004.
- Schedule M, Other Additions and Subtractions, has been created for Form IL-1040 filers. The new schedule allows you to figure the total amount of additions you must include on Form IL-1040, Line 3, and subtractions you may claim on Form IL-1040, Line 9.
- The Research and Development Credit that was repealed for 2003, has been restored and can be taken on the appropriate schedule for Income Tax Subtractions and Credits: Schedule 1299-A, Schedule 1299-C, or Schedule 1299-D.

  If you had credit remaining before the credit was repealed, you may not use that credit as a carryforward for 2004.
- For tax years beginning on or after January 1, 2004, the Film Production Services Tax Credit is now available for individuals on Schedule 1299-C. In 2003, this credit was only allowed for businesses in the film industry and could be found only on Schedules 1299-A and 1299-D. Individuals who received a Tax Credit Certificate from the Illinois Department of Commerce and Economic Opportunity or receive the credit as a pass-through from a business on Schedule K-1-P, Partner's or Shareholder's Share of Income, Deductions, Credits, and Recapture, may take this credit on Schedule 1299-C.
- ***Short-year filers*: For tax years beginning on or after January 1, 2004, and ending on or before June 30, 2004,** the Transportation Employee Credit is available for businesses and individuals that
  - paid a commercial distribution fee under the Illinois Vehicle Code during the taxable year, or
  - are motor carriers engaged in interstate commerce and are subject to regulation by the federal Surface Transportation Board.

  The credit amount is $50 for each eligible employee. This credit may be taken on Schedules 1299-A, 1299-C, and 1299-D.
- The 30 percent credit for start-up expenses for the Employee Child Care Credit on Schedule 1299-D expires on December 31, 2004. ***You may take this credit for tax years ending before December 31, 2004.*** However, the credit for 5 percent of operating expenses is still in effect.

What changes have been made to the electronic filing methods for individuals in 2004?

- Taxpayers who are required to file Form IL-4562 are once again eligible to file Form IL-1040 by I-File, e-File, or PC File this year.
- Taxpayers filing Schedule M, for Form IL-1040 will be allowed to file electronically.
- The following items have been added to the list of "other subtractions" that qualify for electronic filing.
  - Restoration of amounts received under claim of right under IRC Section 1341.
  - Contributions to a job training program.
  - Interest earned on investments through the Home Ownership Made Easy Program.
  - Ridesharing money and other benefits.
  - Payment of life insurance, endowment, or annuity benefits received.
  - Employer's contributions made on your behalf to an account established under the Medical Care Savings Accounting Act and the interest earned.
  - Lloyd's plan of operations income if reported on your behalf on Form IL-1023-C.
  - Income earned by certain trust accounts established under the Illinois Pre-Need Cemetery Sales Act.
  - Education loan repayments made for primary care physicians who agree to practice in designated shortage areas under the Family Practice Residency Act.
  - Reparations or other amounts received as a victim of persecution by Nazi Germany.

What do I need to note for tax year 2005?

- The amount individuals are allowed to subtract on Form IL-1040 for contributions made to the "Bright Start" College Savings Pool will be limited to $10,000, regardless of the amount actually contributed during the tax year.
- Contributions made to the "College Illinois" Illinois Prepaid Tuition Trust Fund, will be an allowable subtraction. The subtraction is limited to $10,000, regardless of the amount actually contributed during the tax year.