

IT 10-0008-GIL 04/02/2010 SUBTRACTION MODIFICATIONS – INTEREST ON U.S.
GOVERNMENT OBLIGATIONS

General Information Letter: No federal statute prohibits state taxation of interest paid on Small Business Administration Participation Business Pass-Through Certificates or loans guaranteed by the Small Business Administration.

April 2, 2010

Dear:

This is in response to your letter dated February 1, 2010 in which you state the following:

I am trying to determine the taxation of several obligations of the United States Government that I do not see specifically listed on Publication 101, Income Exempt from Tax. The general instructions say, "Obligations of the United States" are those obligations issued "to secure credit to carry on the necessary functions of government." These exemptions are aimed at protecting the "Borrowing" and "Supremacy" clauses of the Constitution. However, I do not see the Small Business Administration specifically listed on page 3 of Publication 101.

I would like to know if the following qualify as exempt from taxation on Form IL-1120:

Small Business Administration Participation Business Pass-through Certificates that seem to meet the criteria of obligations of the United States Government: i.e. they are written documents, bear interest, are binding promises by the United States to pay specified sums at specified dates, and are backed by the full faith and credit of the United States in support of the promise to pay. These are the CUSIPS: XXXXXXXXXX, XXXXXXXXXX, XXXXXXXXXX, XXXXXXXXXX, XXXXXXXXXX.

We also have purchased the SBA guaranteed portion of farm loans and I would like to know if these qualify as well. An example of which is called "Guaranteed Interest Certificate Guaranteed by Small Business Administration of the United States Government" #XXXXXX SBA Loan Number XXXXXXXXXXXXX.

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.

Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G) of the Illinois Income Tax Act ("IITA"; 35 ILCS 5/101 et seq.) provide a subtraction modification for amounts included in taxable income that come from stocks and obligations of the United States Government, as well as the interest from those obligations, when federal law specifically exempts such income from state income taxation. The Illinois regulations, specifically 86 Ill. Admin. Code 100.2470(c), provides a list that is intended to be exhaustive of exempt income along with the specific statutes to which each exempt income item relates. This list does not include a federal statute that exempts Small Business Administration Participation Business Pass-through Certificates and Guaranteed Interest Certificates Guaranteed by Small Business Administration of the United States Government from state income

IT 10-0008-GIL

April 2, 2010

Page 2

taxation. We are not aware of a federal law prohibiting Illinois from taxing income derived from such Certificates. As a result, the Certificates mentioned in your letter do not qualify as exempt from Illinois taxation, and income from these Certificates must be included as taxable income on Form IL-1120.

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