

General Information Letter: Federal itemized deductions may not be subtracted in computing base income of an individual.

January 3, 2011

Dear:

This is in response to your request for a letter explaining the disallowance of a subtraction claimed on your 2009 Illinois Income Tax Return. 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).

On line 7 of the Form IL-1040, Individual Illinois Income Tax Return, you filed for 2009, you claimed a subtraction of \$21,933. This amount was reported on line 26 of the Schedule M, Other Additions and Subtractions for Individuals, attached to your return, as a "Recovery of items previously deducted on U.S. 1040, Schedule A (including refunds of any state and local income taxes, other than Illinois)." Schedule A, Itemized Deductions, of your 2009 federal income tax return shows that the \$21,933 was the total amount of itemized deductions claimed for that year, and not a recovery of items deducted in prior years.

### **Explanation**

Under Section 203 of the Illinois Income Tax Act (35 ILCS 5/203), the computation of an individual's "net income" taxed by Illinois begins with the taxpayer's federal "adjusted gross income," as properly computed for the taxable year. "Adjusted gross income" is income before taking into account exemptions and the standard deduction or itemized deductions. Accordingly, itemized deductions are not taken into account in computing Illinois net income.

Various addition and subtraction modifications are then made, and the resulting "base income" of an Illinois resident, minus exemptions, is his or her net income on which tax is computed. Section 203(h) provides that no modification may be made to adjusted gross income unless expressly provided in Section 203.

Section 203(a)(2)(I) allows a taxpayer to subtract from his or her adjusted gross income:

An amount equal to all amounts included in such total pursuant to the provisions of Section 111 of the Internal Revenue Code as a recovery of items previously deducted from adjusted gross income in the computation of taxable income.

Section 111 of the Internal Revenue Code is the so-called "tax benefit rule," which requires a taxpayer to include in adjusted gross income any "recovery during the taxable year of any amount deducted in any prior taxable year." This is the provision that requires a taxpayer who claims an itemized deduction for Illinois income tax paid in one year to include in income in a subsequent year any refund of that tax.

Because Illinois does not allow itemized deductions, it would be improper to tax the recovery of an itemized deduction. Accordingly, Section 203(a)(2)(I) allows a subtraction for the amount included in federal adjusted gross income for a year resulting from the recovery of an amount "deducted from

adjusted gross income” in a prior year, but not for the recovery of any item that was deducted in computing adjusted gross income in a prior year. Refunds of Illinois income tax are subtracted on line 6 of the Form IL-1040, while recoveries of other itemized deductions are reported on line 26 of the Schedule M. The instructions for line 26 state:

Write the amount of recovery of items (including refunds of any state and local income taxes, other than Illinois) that you deducted on your U.S. 1040, Schedule A, Itemized Deductions, in a prior year. You must have included these items on your U.S. 1040, Page 1, and your Form IL-1040, Line 1, for this tax year.

The statute and the instructions allow you to subtract on your 2009 Illinois return only an amount included in your 2009 federal adjusted gross income as the recovery of an itemized deduction claimed in a year prior to 2009. They clearly do not allow you to subtract on your 2009 Illinois return any itemized deduction claimed on your 2009 federal return. Accordingly, the subtraction you claimed was properly disallowed.

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