IT 11-0024-GIL 12/20/2011 SUBTRACTION MODIFICATIONS – OTHER RULINGS

> General Information Letter: No subtraction is allowed for long-term care insurance payments included in adjusted gross income.

December 20, 2011

Dear:

This is in response to your letter dated November 7, 2011. The nature of your letter requires that we respond with a General Information Letter (GIL). A GIL 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 accessed from the Department's web site at www.ILtax.com.

Your letter states as follows:

> Earlier this year, I phoned your "help" line for income tax assistance. The staff member I spoke with researched my question as best he could and then suggested I write your office for a ruling.
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> The facts in a "nutshell" are as follows. My husband is chronically ill with Parkinson's Disease, severe neuropathy in both legs, and suffers from several other chronic conditions. For the last few years, he received reimbursements for home health care expenses covered by his Long Term Care insurance policy. As the policy (issued in 1997) is classified as non-qualified, he was sent Form 1099-LTC and we reported the amount on our Federal Form 1040, Line 21, Other Income. This was carried over and included on our Illinois Form IL-1040. These amounts for the last few years were not a significant part of our total income.
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> In 2011, Mr. Z moved to an Assisted Living Facility where he gets more care for his deteriorating health. The amount that will have been paid in 2011 by the LTC Insurance Company will be quite a substantial portion of our total income. Of course, the total received and then some (as not all costs are reimbursed) will have been paid by us to the Assisted Living Facility. Hence, this is not really "income" per se to us, but rather "reimbursed payments" under an insurance policy.
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> While it does not seem right that we would be taxed on Long Term Care reimbursements for Assisted Living Facility payments made, I am unclear where to subtract them on Form IL-1040. I have read through the Instructions for Schedule M IL-1040 "Other Subtractions." Upon examining each Schedule M line, the closest for subtracting these payments appears to me as Line 27 which is labeled "Payment of life insurance, endowment, or annuity benefits received."
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> Please advise your interpretation and ruling on the subtraction of Long Term Care Insurance benefits received. We are senior citizens with limited income who want to correctly file our 2011 Illinois Tax Return. Thank you in advance for your help.

RULING

Section 201(a) of the Illinois Income Tax Act ("IITA" ; 35 ILCS 5/201) imposes a tax, measured by "net income," upon every individual earning or receiving income in or as a resident of this State. The starting point in calculating "net income" for Illinois income tax purposes is the taxpayer's federal adjusted gross income (AGI) as reported on the federal Form 1040. Therefore, in general, any item of income that is included in the computation of a taxpayer's federal AGI is likewise included in the computation of the taxpayer's Illinois net income. In this case, you have indicated that the proceeds or reimbursements from a long-term care insurance contract must be included in your federal AGI. Consequently, the proceeds must also be included in your Illinois income.

As your letter points out, the IITA does contain certain subtraction modifications that allow taxpayers to deduct some items of income that were included in AGI. However, IITA Section 203(h) states:

> Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income, or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

This Section means that only items as to which the IITA explicitly provides for subtraction may be claimed as subtraction modifications in computing Illinois net income. The IITA does not broadly provide a subtraction modification for proceeds or reimbursements under a long-term care insurance policy. The subtraction to be claimed on Schedule M, Line 27, to which your letter makes reference, is for amounts received as an acceleration of payment under an insurance policy before such amounts would otherwise be payable, as an indemnity for a terminal illness. See IITA Section 203(a)(2)(Q). Based on the information provided in your letter, the payments at issue here would not qualify for subtraction under Section 203(a)(2)(Q).

Accordingly, because the long-term care insurance proceeds described in your letter are included in your federal AGI, they must also be included in your Illinois net income.
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As stated above, this is a GIL. A GIL 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 have further questions regarding this GIL, please call (217) 782-7055.

Sincerely,

Brian L. Stocker
Associate Counsel (Income Tax)