IT 12-0002-GIL 01/31/2012 CREDIT – REPLACEMENT TAX INVESTMENT

General Information Letter: For purposes of determining the credit rate for increased employment, employment for the prior taxable year is the average employment for each month of the taxable year and, in the case of a short taxable year, uses only the number of months in that taxable year.

January 31, 2012

Dear:

This is in response to your letter dated October 17, 2011 in which you state the following:

> I was instructed to contact you with respect to Illinois Replacement Tax Credit, specifically to Step 2 – Figuring your base employment calculation worksheet.
>
> If the preceding tax year was a short period (4/1/09 – 12/31/09), would you only include the monthly figures from the Illinois Form UI-3/40 for the 9 months – (4-12) and divide by 9, or required to enter the entire twelve month period, regardless of the short period return.

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.

Section 201(e) of the Illinois Income Tax Act ("IITA;" 35 ILCS 5/101 et seq.) allows a credit against the Illinois Personal Property Tax Replacement Income Tax imposed by Section 201 (c) and (d), and an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year if the taxpayer's base employment in Illinois has increased by at least 1% over the preceding year.

For specific guidance on the operation of this credit, please refer to the Department regulations 86 Ill.Admin.Code 100.2101. Regarding the calculation of base employment, the regulations state as follows:

> (c)(1) Base employment. For purposes of calculating the additional investment credit, base employment in Illinois is defined as the average monthly total of individuals employed in Illinois by a taxpayer during the taxable year. To calculate base employment for a particular taxable year, the taxpayer need only total the number of individuals he employed in Illinois during each month of the taxable year as reported to the Illinois Department of Employment Security on Line 1 of Form UC-3/40 or Form UI-3/40M and ***divide this total by the number of months in the taxable year.***

Emphasis added. You can find the regulation on the Department's website at http://tax.illinois.gov/LegalInformation/regs/Part100/100-2101.pdf.

You indicate that the 9 month period has its own tax return: "the short period return." If this 9-month period was your "taxable year," then you are correct in using the monthly figures from the Illinois Form

UI-3/40 for nine months and dividing by 9. You attached a copy of an IL-477 which seems to be filled out correctly assuming your taxable year was from April 2009 through December 2009 and the numbers match those you provided to the Illinois Department of Employment Security.

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
Associate Counsel -- Income Tax