IT 13-0006-GIL 04/10/2013 SUBTRACTION MODIFICATIONS – PENSIONS

> General Information Letter: Income from an annuity purchased for a retiree by a qualified pension plan may qualify for the subtraction for retirement income.

April 10, 2013

Dear:

This is in response to your letter dated February 14, 2013, in which you request a letter ruling. 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.

In your letter you have stated the following:

> I have been receiving a pension from COMPANY1 that was not subject to Illinois income tax. However, effective January 1, 2013, COMPANY2, per attached copy, will manage the pension with the purchase of an annuity. Please advise if the annuity is subject to Illinois State income tax.

The letter from COMPANY1 that you enclosed states:

> The RETIREMENT PROGRAM has reached the final agreement with the COMPANY2 regarding the purchase of an annuity contract for COMPANY2 to manage and pay your retiree pension benefits beginning January 1, 2013.

Response

Section 203(a)(2)(F) of the Illinois Income Tax Act (35 ILCS 5/203) allows an individual to subtract from his or her adjusted gross income:

> An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto.

Section 402 of the Internal Revenue Code deals with distributions from employee trusts exempt under Section 401(a) of the Internal Revenue Code. Section 403(a) of the Internal Revenue Code deals with annuities described in Section 404(a)(2) of the Internal Revenue Code, which describes certain annuities purchased by employee trusts exempt under Section 401(a) of the Internal Revenue Code.

It is therefore possible that an annuity purchased on your behalf by the RETIREMENT PROGRAM would qualify for the subtraction as an annuity purchased by a qualified employee trust under Section 403(a) of the Internal Revenue Code. However, your letter does not contain sufficient information to make that determination. You should contact the RETIREMENT PROGRAM or the COMPANY2 to determine whether the annuity qualifies for the subtraction.

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