

Subtraction modification for military pay by ROTC instructor (This is a GIL.)

12/28/2017

Re: Subtraction modification for military pay by ROTC instructor

Dear Xxxxx:

This is in response to your letter in which you request information regarding your ability to deduct your wages as military pay on Schedule M. 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).

Your letter states as follows:

I am a retired Army officer and now an instructor of ROTC at a high school in Peoria. I receive a W-2 from Peoria District 150 with both federal and state taxes withheld for the position of being an ROTC instructor. The ROTC program at the High School is funded by the Army, however my pay and my W-2 comes from the School District.

Since I am an instructor of ROTC, does pay that I receive on my W-2 from the School District as an ROTC instructor qualify as military pay and can I deduct that pay on the Schedule M?.

**RULING**

Section 203(a)(2)(E) of the Illinois Income Tax Act ("IITA" 35 ILCS 5/203) provides the following subtraction modification in the computation of base income:

For taxable years ending before December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being on active duty in the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to Sections 502 and 503, Title 32, United States Code as a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. For taxable years ending on or after December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being a member of any component of the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or thereafter by reason of being a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. The provisions of this subparagraph (E) are exempt from the provisions of Section 250.

We previously have issued guidance on how to interpret this provision for civilian employees. See Letter Rulings IT 16-0003-GIL and IT 16-0008-GIL, available on our website, [www.tax.illinois.gov](http://www.tax.illinois.gov).

Generally speaking, military pay received as a civilian is not entitled to tax-exempt status. See Publication 102. We cannot determine from your letter whether your position constitutes a military title under 32 U.S.C. §709(a) by either the Secretary of the Army or Secretary of the Air Force.

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 regarding this letter, you may contact me at (312) 814-1722.

Sincerely,

Brian E. Fliflet  
Deputy General Counsel, Income Tax