

Executor is not required to file a return on behalf of deceased if deceased individual was not required by IITA to file a return. (This is a GIL.)

July 12, 2019

Re: Illinois Income Tax

Dear Xxxx:

This is in response to your letter dated June 12, 2019, in which you request information regarding Illinois income tax. 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.

Your letter states as follows:

My Sister NAME passed away on DATE. I was named as her executor. A small estate affidavit was filed with the Secretary of State. A copy of the affidavit, her will, and death certificate are attached.

My sister has not been filing federal and state income taxes because her gross income was too low. For 2018, her social security benefits were \$\$\$ and other income was less than \$\$\$. As a head of household, she would have had a standard deduction of \$\$\$.

As far as I can tell, I do not have to file a federal or state income tax returns on her behalf. If that isn't so, please let me know. Regarding her estate, I anticipate that it will have a value of t had a less than \$\$ after payment of her debts.

RULING

Section 502 of the Illinois Income tax Act ("IITA"), 35 ILCS 5/502, states, in part, as follows:

- (a) In general. A return with respect to the taxes imposed by this Act shall be made by every person for any taxable year:
 - (1) for which such person is liable for a tax imposed by this Act, or
 - (2) in the case of a resident or in the case of a corporation which is qualified to do business in this State, for which such person is required to make a federal income tax return, regardless of whether such person is liable for a tax imposed by this Act. However, this paragraph shall not require a resident to make a return if such person has an Illinois base income of the basic amount in Section 204(b) or less and is either claimed as a dependent on another person's tax return under the Internal Revenue Code, or is claimed as a dependent on another person's tax return under this Act.[...]
- (b) Fiduciaries and receivers.

- (1) Decedents. If an individual is deceased, any return or notice required of such individual under this Act shall be made by his executor, administrator, or other person charged with the property of such decedent.[...]
- (2) Estates and trusts. Returns or notices required of an estate or a trust shall be made by the fiduciary thereof.
- (3) Receivers, trustees and assignees for corporations. In a case where a receiver, trustee in bankruptcy, or assignee, by order of a court of competent jurisdiction, by operation of law, or otherwise, has possession of or holds title to all or substantially all the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the returns and notices required of such corporation in the same manner and form as corporations are required to make such returns and notices.[...]

According to Section 201 of the IITA, a tax measured by net income is imposed on every individual, corporation, trust and estate on the privilege of earning or receiving income in or as a resident of Illinois. Section 202 of the IITA defines net income as a taxpayer's base income allocable to this State less the standard exemption allowed by Section 204 of the IITA. Pursuant to Section 203 of the IITA, a taxpayer's base income is the taxpayer's federal adjusted gross income subject to certain addition and subtraction modifications.

Section 502(a) of the IITA requires that a resident must file an Illinois tax return if they incur a liability for tax imposed under Section 201 of the IITA or are required to file a federal income tax return. If an individual is deceased, Section 502(b) of the IITA requires the executor to file any required tax return on their behalf.

If your sister was not required to file a federal income tax return and her Illinois base income was less than the Illinois exemption allowance, then your sister was not required to file a return, and by extension, you would not have to file one on her behalf. For further information, please see the Instructions for the 2018 Form IL-1040 and the Illinois Income Tax Act, both of which may be found at the Department's website: www.tax.illinois.gov.

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 (217) 782-2844.

Sincerely,

Michael D. Mankowski
Associate Counsel (Income Tax)