

General Information Letter: In computing the credit for taxes paid to other states, residents are required to allocate credits to out-of-state income due to the United States Supreme Court decision in *Lunding v. New York Tax Appeals Tribunal*.

July 11, 2023

NAME
ADDRESS

Dear NAME:

This letter is in response to your letter in which you requested information about taking certain deductions on Schedule CR. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I would like to receive more information concerning the treatment of Health Savings Account deductions as it pertains to IL-CR used when an Illinois resident taxpayer pays taxes to other states. In apportioning the deductions to either total IL income or specifically other state income, most deductions that are not specifically related to the income in other states are apportioned (like the ½ SE tax deduction) so that they are only applied against other state income in a proportional manner. This intuitively makes sense.

For the Health Savings Account deduction, however, the form forces the ENTIRE HSA deduction to be applied against other state income, rather than doing it in a manner proportional to the overall percentage of income that the other states represented. For someone who has modest income in other states compared to a large overall income, this can almost entirely negate any income paid to other states, resulting in an artificially lowered tax credit for taxes paid to those states and in effect, double taxing that money. The HSA deduction is not specifically

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related to the income from other states as opposed to overall income, so it is counter-intuitive that the entire deduction be levied against solely other state income.

Would it be possible to explain why IL residents who pay taxes to other states are not allowed the benefit of an HSA deduction, when it is clearly the intent of the State of Illinois to allow a deduction for HSA deductions for their residents in general, as the starting point for calculating IL income is the Federal AGI, after the HSA deduction is subtracted, and it is not added back in for general IL income?

Thank you in advance for any information you can provide.

DEPARTMENT'S RESPONSE:

Section 601(b)(3) of the Illinois Income Tax Act (35 ILCS 5/601) allows Illinois residents a credit for taxes paid to other states. That section provides, in part:

[T]he credit provided under this paragraph for tax paid to other states shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income that would be allocated or apportioned to other states if all other states had adopted the provisions in Article 3 of this Act bears to the taxpayer's total base income subject to tax by this State for the taxable year.

In *Lunding v. N.Y. Tax Appeals Tribunal*, 522 U.S. 287 (1998), the United States Supreme Court held that states could not discriminate against nonresidents by denying them the same deduction for alimony paid that would be allowed to residents. Accordingly, Illinois allows nonresidents to allocate the full amount of the deduction for health savings accounts to Illinois in determining their Illinois net income. Consistent with this allocation, the limit on the credit for taxes paid to other states in Section 601(b)(3) must be computed by allocating the deduction for health savings accounts to other states as if they followed the same allocation principles as Illinois. The instructions to the Schedule CR, Credit for Taxes Paid to Other States, correctly apply the statute.

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.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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Brian Fliflet
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