

IT 24-0011-GIL 11/15/2024 SUBTRACTION MODIFICATIONS

Whether the transfer of property at death qualifies as a transfer or disposition giving rise to the subtraction modification for bonus depreciation. (This is a GIL.)

November 15, 2024

NAME  
BUSINESS  
ADDRESS

Re: Whether transfer of property at death constitutes the last year of regular depreciation for purposes of the final subtraction for bonus depreciation under 35 ILCS 5/203(a)(2)(AA)

Dear NAME:

This is in response to your email dated September 29, 2024, in which you requested 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 2 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at <https://tax.illinois.gov/>

Your email states as follows:

Would like to hear a ruling on this issue that we have seen with a client.

Our firm prepares farm tax returns in central IL and have come across an issue with a deceased taxpayer and IL 4562. The taxpayer died DATE and in the year of death had spent \$\$\$\$\$\$ on a farm machine shed/shop prior to death. So on the 2023 federal 4562 we claimed the %% bonus figure of \$\$\$\$\$\$. The taxpayer showed no federal AGI or taxable income and therefore paid no federal tax. On the IL 4562 we put on line 1 - \$\$\$\$\$\$ which resulted in an IL addition and line 14 - \$\$\$ and line 15 \$\$\$\$ for the 1st year of regular depreciation on the "bonus portion". The taxpayer therefore had a large IL net income in mid \$\$\$k's due to this addition and therefore paid around \$\$k of IL tax.

My question is if we are able to put a subtraction on line 18 of the IL 4562 for the "Last year of regular depreciation"? Here is what the IL 4562 instructions say:

*Line 18 - Last year of regular depreciation: This line allows you to claim the same total Illinois depreciation and federal depreciation over the period for which you claim federal depreciation for an asset. For assets that you claim 30, 40, 50, 60, or 80 percent bonus depreciation, you must reverse all the additions claimed for each asset if this is the final year for which*

*you can claim regular federal depreciation because the asset was sold, traded, abandoned, or otherwise disposed of, or*

- *reached the end of its depreciable life.*

*For assets that you elected 100 percent bonus depreciation, you must reverse all the additions claimed for each asset if this is the final year for which you would have claimed regular federal depreciation had you elected not to claim bonus depreciation under IRC Section 168(k)(7) because the asset*

- *was sold, traded, abandoned, or otherwise disposed of, or*
- *reached the end of its depreciable life.*

*Enter the Illinois special depreciation addition you reported on any prior year Form IL-4562, Line 1 plus Line 2, for this property*

I think the question is, has the taxpayer "disposed of or abandoned" the property to their estate? Or maybe it has reached the "end of its depreciable life" because it can no longer be depreciated?

I keep going back to the first sentence of the Line 18 instructions: "*This line allows you to claim the same total Illinois depreciation and federal depreciation over the period for which you claim federal depreciation for an asset*". If we aren't allowed to claim this line 18 subtraction the taxpayer would never have gotten to claim the same total IL depreciation as federal.

## **RULING**

Section 203(a)(2)(D-15) of the Illinois Income Tax Act (IITA) provides for an addition modification in the amount of any bonus depreciation taken on the taxpayer's federal return under subsection (k) of Section 168 of the Internal Revenue Code. In place of bonus depreciation, IITA Section 203(a)(2)(Z) allows a subtraction modification for the regular depreciation that would have been taken in that year but for subsection (k). Then at the end of the property's useful life, or when the property is sold or otherwise disposed of, IITA Section 203(a)(2)(D-16) and (AA) operate as true-up provisions to reverse all prior addition and subtraction modifications in order to arrive at the federal depreciation taken on the same property. Specifically, Section 203(a)(2)(AA) provides:

(AA) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which a subtraction is allowed with respect to that property under subparagraph (Z) and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

The death of a taxpayer does not constitute a transfer or disposition within the meaning of IITA Section 203(a)(2)(AA) for which a subtraction can be taken on Line 18 of Form IL-4562. IRS Publication 544 provides: "Transfer on death. The transfer of property of a decedent to an executor or administrator of the estate, or to the heirs or beneficiaries, is not a sale or exchange or other disposition."

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) 782-2844.

Sincerely,

Brian Fliflet  
Deputy General Counsel, Income Tax Policy