

Income/Franchise:

Illinois DOR Letter Rulings Address Nexus and Bonus Depreciation Adjustments in a Reorganization

General Information Letter IT-22-0009-GIL, Ill. Dept. of Rev. (6/14/22); *Private Letter Ruling IT-22-0002-PLR*, Ill. Dept. of Rev. (4/12/22). Responding to a taxpayer's corporate income tax nexus inquiry, the Illinois Department of Revenue (Department) indicated in a general information letter that for Illinois sales tax purposes, Illinois requires remote sellers to collect sales tax from Illinois customers if their amount of sales into Illinois exceed \$100,000 or 200 transactions annually; however, "Illinois has not adopted a similar threshold for income tax nexus but asserts jurisdiction to tax business income to the full extent allowed under the US Constitution." The Department also reminds that for sales of tangible personal property, Illinois income tax nexus is still determined in accordance with the Commerce Clause, the Due Process Clause, and Public Law 86-272.

URL: <https://www2.illinois.gov/rev/research/legalinformation/lett rulings/it/Documents/2022/IT22-0009-GIL.pdf>

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In a separate private letter ruling involving an Internal Revenue Code section 368(a)(1)(D) reorganization with the underlying distribution satisfying the business purpose requirement of Treasury Regulation 1.355-2(b), the Department explained that because the corporation at issue is deemed to have contributed all of its assets to the new corporation, the addition and subtraction bonus depreciation modifications under Illinois Income Tax Act (IITA) sections 203(b)(2)(E-11) and (b)(2)(U) apply. Furthermore, for the taxable year of its reorganization (*i.e.*, the contribution and subsequent distribution), the corporation must add back the aggregate amount of subtraction modifications claimed on property under IITA section 203(b)(2)(T) and is permitted to subtract the amount of the addition modification claimed on property under IITA section 203(b)(2)(E-10). Please contact us with any questions.

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