

Illinois will follow the federal income tax treatment afforded to a trust for State income tax purposes. (This is a GIL.)

03/24/2022

EMAIL1

EMAIL2

Re: Illinois income tax

Dear NAME:

This is in response to your letter dated February 9, 2022, 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 ("GIL"), 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 www.tax.illinois.gov.

Your letter states as follows:

The purpose of this letter is to request a private letter ruling or legally binding letter (whichever instrument/term is appropriate) to clarify the assignment of income by a trust beneficiary to his/her single member LLC.

The specific situation is my brother (NAME) and I are co-trustees of our father's Illinois trust. The trust documents list NAME and me as beneficiaries of the cash rent income on a small parcel of agricultural land. The land is owned by the trust.

NAME has registered a single member LLC and wants to assign his income from the trust to that LLC and have the Federal K-1 and the IL K-1-T made out to that LLC (and the LLC'S EIN) instead of himself and his SSN.

We would like a ruling from your office as to whether the use of his LLC on the trust's returns K-1 and K-1-T is proper or not.

If this is proper, is there anything else the trust needs to file or do to reflect this assignment (what and with whom)?

In the private letter ruling or legally binding letter, could you please provide the statutes or other citations for our records that are relevant to, and/or regulate, this situation?

Since NAME and I are both spending the winter away from our homes, please reply by email to EMAIL1 and EMAIL2 to avoid any delay in receipt of your reply.

Thank you in advance for a prompt reply so that we can proceed with filing the trust returns in a timely manner.

RULING

You represent that the trust instrument lists you and your brother as beneficiaries of the trust, however you do not indicate whether the trust instrument permits the modification of beneficiaries or the assignment of beneficial interest in the trust to a single member LLC.

While the ultimate issue concerns the Illinois income tax treatment of a trust, the necessary threshold question involved is a matter of trust law. If you would conclude that the assignment of beneficial interest in the trust to a single member LLC is permissible under the trust instrument, then Illinois will follow the federal income tax treatment afforded to the trust for State income tax purposes.

Therefore, on behalf of the trust you would file Form IL-1041 and Schedule D with the Department, and complete and submit Schedule K-1-T(s) to the beneficiary(ies) of the trust, ensuring that all information in Schedule D and Step 2 of the Schedule K-1-T(s) accurately reflect the beneficiary(ies) of the trust.

As stated above, this is a GIL. A GIL does not constitute a statement of Department policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department.

Sincerely,

Jennifer Uhles
Associate Counsel (Income Tax)