

Employer may use time and attendance system to allocate wages between states where employee performs services or complete Form IL-W-6.. (This is a GIL).

June 5, 2023

NAME/ADDRESS

Dear NAME:

This letter is in response to your letter dated January 25, 2021, in which you requested information about sourcing wages when an individual performs services in two states. 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:

BUSINESS. requests a ruling on the proper treatment of wages earned by an Illinois resident working in Illinois and outside of the state under Section 304(a)(2)(B) of the Illinois Income Tax Act (35 ILCs 5/304).

Taxpayer Information

BUSINESS.

Illinois Employer ID ##-##### ### S

Description of Taxpayer's Business Operations

BUSINESS. is a trusted global provider of indirect tax software and solutions. The company provides cloud- based and on-premise solutions that serve specific industries for every major line of indirect tax, including sales and consumer use, value added and payroll.

Facts Relating to Transaction

Here are the facts of the case:

- Tax year YEAR
- The taxpayer's employee is a domiciliary resident of Illinois who

performs services for both an office in STATE and an office in Illinois. In most cases, the employee's percentage of time worked in the two states varies for each bi-weekly pay period. There may be times where the employee works more hours in STATE and other times in Illinois.

- The employee's base of operations is in STATE.
- The taxpayer uses a proration method explained below to allocate the wages for Illinois. This is necessary to account for differences in taxability rules of deductions between different states.

Proration Method Steps:

1) Calculate the proration factors for Illinois and STATE using the gross regular and supplemental wages earned in each state.

- \$\$\$\$\$ earned in Illinois divided by \$\$\$\$\$ total wages = .% % %
- \$\$\$\$\$ earned in STATE divided by \$\$\$\$\$ total wages = .% % %

2) Multiply the total gross less deductions by the proration factor of the wages earned in Illinois. This is reported as the adjusted gross for Illinois and the resident tax is calculated on this amount.

- \$\$\$\$ X .% % % = \$\$\$\$

		1	2	3	
		Total Wages IL Resident	IL work	ST work	
A	Regular Gross	\$ 13,789.45	\$ 10,234.55	\$ 3,554.90	
B	Supplemental Gross	\$ 704.17	\$ 0	\$ 704.17	
C	Total wages (Reg+ Sup) Before deductions	\$ 14,493.62	\$ 10,234.55	\$ 4,259.07	A + B
D	Pre-tax deductions	\$ 1,640.11	\$ 1,217.29	\$ 422.82	
E	Adjusted wages After deductions	\$ 12,853.51			C - D
					C2 / C1 and C3 / C1
			10,234.55 / 14,493.62	4,259.07 / 14,493.62	
F	proration factors based on total wages		0.706141737	0.293858263	
	Prorated IL resident gross	\$ 9,076.40			E1 x F2

The taxpayer is prorating the total resident wages to exclude wages that are taxable for STATE. Only part of the wages is taxable for IL because the wages earned in STATE were not incidental pursuant to Section 304(a)(2)(B) of the Illinois Income Tax Act (35 ILCs 5/304). The

taxpayer has determined that no statement of authorities exist that contradicts the taxpayer's views on this matter.

RULING REQUESTED

The taxpayer requests the approval of the proration method used. The taxpayer uses this proration method to account for differences in taxability of deductions and compensations between states.

DEPARTMENT'S RESPONSE:

Section 201(a) of the Illinois Income Tax Act (IITA) imposes a tax measured by net income on individuals, corporations, trusts and estates for the privilege of earning or receiving income in or as a resident of this State. IITA Section 304(a)(2)(B)(iii) provides:

For tax years ending on or after December 31, 2020, compensation is paid in this State if some of the individual's service is performed within this State, the individual's service performed within this State is nonincidental to the individual's service performed without this State, and the individual's service is performed within this State for more than 30 working days during the tax year. The amount of compensation paid in this State shall include the portion of the individual's total compensation for services performed on behalf of his or her employer during the tax year which the number of working days spent within this State during the tax year bears to the total number of working days spent both within and without this State during the tax year.

If an employer does not maintain a time and attendance system where (a) the employee is required to record the work location for every day worked outside of the state where the employment duties are primarily performed; and (b) it allows the employer to allocate the employee's wages for income tax purposes among all states in which the employee performs services, then the employer shall complete Form IL-W-6.

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,

Brian Fliflet
Deputy General Counsel