

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))

**TITLE 86: REVENUE
PART 100
INCOME TAX**

Section 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))

- a) In computing base income, a taxpayer may subtract from federal taxable income or adjusted gross income an *amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to IRC section 1341 or of any itemized deduction taken from adjusted gross income in the computation of taxable income for restoration of substantial amounts held under claim of right for the taxable year.* (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))
- b) For federal income tax purposes, if a taxpayer is required to include a receipt in taxable income under the "claim of right" principle because the taxpayer had an unrestricted right to the item when received, and is subsequently required to repay the item, the taxpayer must deduct the repayment in the year of repayment, rather than exclude the receipt from income. However, IRC section 1341 allows some taxpayers to claim a credit against their federal income tax liability in the year of repayment equal to the tax attributable to the inclusion of the receipt in taxable income, in lieu of the deduction. In order to avoid taxing income received under a claim of right that is subsequently repaid, IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M) allows a taxpayer who claimed a credit under IRC section 1341 for a taxable year to subtract an amount equal to the amount of the repayment that would otherwise have been deductible in that taxable year.
- c) In the case of an individual, the deduction allowed for repayment of claim of right income is an itemized deduction taken from adjusted gross income. Because, in the case of an individual, the computation of base income begins with the taxpayer's adjusted gross income, an individual is allowed no deduction for repayment of claim of right income unless expressly provided in IITA Section 203. (See IITA Section 203(a)(1) and (h).) In 2011, Public Act 97-0507 amended IITA Section 203(a)(2)(P) to allow individuals who had claimed an itemized deduction for repayment of claim of right income to subtract the amount of that deduction from their adjusted gross income. This amendment is not, by its terms, required to be applied prospectively only, and the subtraction will be allowed for any taxable year, subject to the statute of limitations for claims for

refund.

(Source: Added at 40 Ill. Reg. 14762, effective October 12, 2016)