

Illinois Department of Revenue  
1500 South Ninth Street  
Springfield, Illinois 62708

INFORMATIONAL BULLETIN FY84-31

TO: Tax Practitioners

SUBJECT: Questions/Answers Regarding Property Tax Subtractions on IL-1040

We are receiving many inquiries from taxpayers and practitioners regarding the new homeowners' property tax deduction (From IL-1040, line 4a). Therefore, we are sending you this bulletin to explain the scope of the deduction and to respond to the questions most commonly asked.

In general, the homeowners' property tax deduction on the 1983 IL-1040 is for 1982 Illinois property taxes paid in 1983 by homeowners on their principal place of residence. In order to qualify for the deduction, the taxes must have been imposed directly on the taxpayer (i.e., usually the taxpayer must be named on the tax bill) and the taxpayer must have lived in the residence during 1982. (Normally, taxes paid in 1983 were imposed in 1982.) If the taxpayer lived in the residence during only part of 1982, he must figure his deduction by prorating the taxes based on the number of months he lived in the residence during that year. If the tax bill includes taxes which are federally deductible as a business expense, the taxpayer must subtract those "business taxes" in figuring his homeowners' deduction. For more information on business taxes, See the Homeowners' Property Deduction Allocation Worksheet on the back of Form IL-1040.

In answering the following questions we have relied on the above explanation and, where appropriate, on federal rules (under the Internal Revenue Code) concerning the federal deductibility of property taxes.

FACTS: Individual lived in house through August, 1983; sold home 9/1/83. Individual paid 1982 taxes in 1983 and paid 1983 taxes in advance to the new buyer. How much can the seller deduct?

ANSWER: If the taxpayer occupied the residence during all of 1982, taxes for 1982, payable in '83, are entirely subtractable on the seller's '83 Illinois return. Taxes for 1983, payable in 1984, are prorated to the seller for the period before moving out. The prorated amount will be considered to have been imposed upon and paid by the seller in 1983 (if seller is on cash basis for tax accounting purposes) and therefore will be subtractable by the seller on his 1983 return. (This answer is derived from the application of equivalent federal rules, namely the special rule of IRC Reg. subsection 1.164-6(d)(2).) The buyer on the other hand would not be able to subtract his prorated share of '83 taxes until 1984 when actual payment of

the '83 taxes is made to the tax authorities.

FACTS: Home owned by brother of the sister living in the house. The sister paid the property tax. The bill is in the brother's name but the house is the sister's principal residence.

ANSWER: No subtraction for the sister because the taxes were not imposed on her. No subtraction for the brother because the home was not his principal residence.

FACTS: Taxpayer received bill in 1983 on principal residence for taxes for 1982 and a back year. All taxes are paid in 1983. May he deduct just the 1982 taxes or all taxes paid in 1983 ('82 plus back year)?

ANSWER: If the taxpayer is "cash basis" for tax accounting purposes, and if the "back year" taxes were imposed on that taxpayer, and if the home was also his principal residence in the back year, then the back year taxes paid in '83 will be subtractable on '83 Illinois return (derived from the application of federal tax rules).

FACTS: Taxpayer lives part year in shelter care home or nursing home. May he claim property taxes on his home for all of year, part of year, or not at all?

ANSWER: Claim full year if stay in nursing home is temporary with intent to return to private residence. Prorate if nursing home has become permanent residence.

FACTS: An elderly couple owns and lives in a 2-flat rental building. What property tax may the couple deduct?

ANSWER: Because this is a multi-unit structure or building, the couple must apportion its total taxes on the basis of its unit in relation to all the units and may take the apportioned amount as an Illinois subtraction. This holds true regardless of whether or not the other unit or units are rented. See Homeowners' Property Tax Deduction Allocation Worksheet on back of IL-1040.

FACTS: Husband and wife separated. Wife lives in house. Property is owned by husband paid property tax. Husband did not live in residence during year. May the husband claim any property taxes paid?

ANSWER: Husband may not subtract taxes.

FACTS: Same situation as above, except husband lived in residence for 5 months. May he claim property tax paid for those 5 months?

ANSWER: Taxes are prorated (5/12) for the period before moving out. If

husband moved out in May, 1982, 5/12 of '82 taxes taxable in '83 may be subtracted on '83 return. If husband moved out in May, 1983, 5/12 of '83 taxes payable '84 may be subtracted on '84 return.

FACTS: Individual moved out of home in 1982 but still owned and rented it out in 1983. Paid property taxes in 1983. May he deduct any the tax paid?

ANSWER: Prorate '82 property taxes payable in '83 for period before moving out. The prorated amount would be subtractable on his 1983 return.

FACTS: Taxpayer owns home and 40 acres of land. The land is not used for farming or for commercial business purposes. He paid property tax on the home and 40 acres, all of which he considers to be his principal residence. May he claim the total amount of property tax paid on home and 40 acres?

ANSWER: Although not used for farming, the land may be assessed as farm land. If so, the dwelling and other residential improvements and the site will be separately shown on tax bill and the taxpayer may deduct the separately shown "residential" amount. If taxes applicable to residential property not separately shown, the taxpayer may deduct the taxes on the dwelling and other residential improvements and on that portion of the 40 acres used for the yard.

FACTS: Lady has a day care center in her home. She filed a U.S. Schedule C; however, she did not take a deduction for property taxes on the U.S. Schedule C. May she claim the full amount of taxes paid?

ANSWER: The worksheet on the back of Form IL-1040 says federally "includible as a business expense", not "deducted". Business property taxes are ineligible for the subtraction on line 4a. Therefore, she may not deduct taxes attributable to her day care center. See the Homeowners' Property Tax Deduction Allocation Worksheet on the back of Form IL-1040.

FACTS: Woman lives in a mobile home that sits on 15 acres of unfarmable ground. The mobile home privilege tax on the mobile home is not subtractable because it is not property tax. May she subtract any - or all - of the property tax on the 15 acres?

ANSWER: If the mobile home is her principal place of residence and she owns the tract upon which the mobile home is located, she may deduct the tax attributable to that portion of the 15 acres used for the yard.

FACTS: An individual owns, lives, and pays property taxes on a working farm. What part of the farmer's property tax may be claimed for

principal place of residence?

ANSWER: On a farmer's property tax bill, that portion of the equalized assessed value which is attributable to the dwelling site and residential improvements should be separately stated. The taxes attributable to the principal place of residence can be determined by multiplying that separately stated value by the total tax rate shown on the bill. See Homeowners' Property Tax

Deduction Allocation Worksheet on back of IL-1040.

FACTS: Homeowner pays penalty and/or interest to the tax authorities because of late payment of real property taxes or in redeeming from a tax foreclosure sale. Are these amounts ever subtractable?

ANSWER: Penalty and/or interest paid pursuant to the Revenue Act of 1939 are not subtractable as they are not "real property taxes" imposed on a taxpayer principal residence within the meaning of the subtraction modification language.

Part year residents and nonresidents may deduct taxes paid in 1983 on property located in Illinois which was their principal residence in 1982 (prorated for a portion of the year if applicable). A person's home within Illinois will be considered his "principal residence" for purposes of the subtraction, only for that part of the year that such person is also claiming to be resident or part-year resident of Illinois for Illinois income tax purposes. Nonresidents and part-year residents should show their subtraction, if any, on line 4-a of IL-1040 as well as on Schedule NR, line 11 as a reduction to Illinois income.

The instructions provided in the IL-1040 booklets outline initial criteria which must be met in order to qualify for the property tax deduction. Please note that the Department DOES NOT REQUIRE a copy of the tax bill to be submitted as supportive documentation for the IL-1040.

Should you need assistance in completing tax returns, you may call us at (217) 782-3336, or in Cook County, at (312) 641-2150.

J. Thomas Johnson  
Director of Revenue

Issued: March 1984

•