

Illinois Department of Revenue  
Roger D. Sweet, Director  
101 West Jefferson Street  
Springfield, Illinois 62794

INFORMATIONAL BULLETIN FY88-17

TO: Tax Practitioners

SUBJECT: Changes enacted by the 85th General Assembly

The purpose of this bulletin is to inform or remind you of the recent and soon-to-be-effective changes in the Illinois income tax and Circuit Breaker. The effective date of each item, as well as the number of the Public Act in which the law may be found, appears at the end of each item.

TAX ENFORCEMENT AND ADMINISTRATION

CIRCUIT BREAKER

All licensed pharmacies are allowed to participate in the Pharmaceutical Assistance Program unless removed, for cause, by the Department. (Public Act 85-797, effective September 24, 1987)

COLLECTION

The Department is allowed to seize a taxpayer's contractual payments, accounts and notes receivable, interest bonds, and other evidences of debt to satisfy a tax liability. (Public Act 85-299, September 9, 1987)

The Department will relieve an "innocent spouse" from liability for tax (including interest and penalties) for any year in which a joint return was filed, when proof is submitted that relief was granted by the IRS. (Public Act 85-731, effective September 22, 1987)

COMPOSITE RETURNS

NONRESIDENT individual partners of the same partnership, NONRESIDENT shareholders of the same S corporation, and NONRESIDENT individuals operating an insurance business in Illinois under a Lloyd's plan of operation may elect to file composite individual income tax returns showing the individuals' composite income allocable to Illinois. Taxpayers who make this election must also make composite payments.

Composite returns may include the income tax owed by Illinois RESIDENTS from their income from partnerships, S corporations, and insurance businesses operating under a Lloyd's plan. These Illinois RESIDENTS may claim credits on their individual returns for their shares of the composite tax payments. If you need more information on filing composite returns, please ask for Form IL-1023-C. (Public Act 85-731, change effective for tax years ending on or after December 31, 1987)

INFORMATIONAL REPORTS

Payors of rents and royalties need no longer file informational reports if the total payments are less than \$1,000. (public Act 85-299,

effective for tax years ending on or after September 9, 1987.

Persons making payments for personal service contracts and prizes or awards no longer need to withhold. These payors need file only informational reports for payments over \$1,000. The form to use for reporting these payments will be available with other 1988 tax forms. (Public Act 85-299, change effective for tax years ending on or after January 1, 1989)

#### INFORMATION SHARING

The Department may give to the Secretary of State information about a corporation that has failed to file returns or to pay a final assessment. (Public Act 85-299, effective September 9, 1987)

#### LIENS

Before title to any property is transferred, the Registrar of Titles must search for an note any outstanding tax liens relating to that property. State tax liens have priority over unfiled federal tax liens. (Public Act 85-299, effective September 9, 1987)

#### PENALTIES

The Department may now assess a "frivolous return" penalty of \$500 against any individual who files a return that does not contain enough information to determine that the tax liability is correct or contains incorrect information intended to delay the processing of the return. (public Act 85-299, change effective for tax years ending on or after December 31, 1987)

A taxpayer will not owe the penalty for underpayment of estimated tax when, in the preceding year, that taxpayer was not required to file an income tax return. (Public Act 85-731, change effective for tax years ending on or after December 31, 1987)

A taxpayer may void the penalty for underpayment of estimated tax if the underpayment is due to a "reasonable cause" such as casualty, disaster, or other unusual circumstance. (Public Act 85-731, change effective for tax years ending on or after December 31, 1987)

It is a criminal offense to file a Circuit Breaker claim that fraudulently states that a non-disabled person is disabled, or to file a fraudulent claim for payment on behalf of an authorized pharmacy. (Public Act 85-299, effective September 9, 1987)

It is a class 4 felony for the first offense and class 3 felony for each subsequent offense for any person - including a tax return preparer - who knowingly enters false information on the return of any taxpayer. (Public Act 85-299 effective September 9, 1987)

#### REFUNDS

If the Department withholds any portion of a refund from a joint because one spouse has another separate liability to the state, the taxpayer who is not liable is entitled to receive his or her portion of

the refund. (Public Act 85-473, change effective for tax years ending on or after January 1, 1988)

The Department will consider an unsigned return to be valid (and the amount due on the return assessed) six months after the Department has notified the taxpayer that a signature is needed. The taxpayer will forfeit the right to a refund of any overpaid tax for failing to provide a signature after three years from the date the return was filed, if the Department has notified the taxpayer that a signature is needed. (Public Act 85-731, change applies to all income tax returns filed under the Income Tax Act since 1969)

If the Department erroneously issues a refund after January 1, 1987, the taxpayer need not pay interest on the repayment of that refund if the amount to be repaid is less than \$500. (Public Act 85-731, effective September 22, 1987)

#### SALES OUTSIDE THE ORDINARY COURSE OF BUSINESS (BULK SALES)

The potential liability is changed for a bulk buyer (transferee with regard to the buyer's responsibility to withhold certain unpaid State taxes from the purchase price. The liability changes from the amount of tax "assessed against" the seller, to the amount "due from" or "owed by" the seller. For transfers occurring on or before January 1, 1988, the amount owed and due from the seller is the amount of tax, penalties, and interest assessed against the seller but unpaid. For transfers after January 1, 1988, the amount owed and due from the seller also includes unpaid withholding tax due, even if it is not yet assessed. (Public Act 85-299, effective September 9, 1987)

#### WITHHOLDING

An employee may claim an exemption (in addition to other exemptions an employee may claim on his IL-W-4) for each \$1,000 deducted from gross income as "adjustments to income" on the U.S. 1040 and for each \$1,000 eligible for subtraction on the IL-1040 as Illinois real estate taxes paid. (Public Act 85-731, change effective for tax years ending on or after December 31, 1987)

#### RETURNS

The following changes to returns were made by the 85th General Assembly, and included in 1987 forms instructions:

#### AMENDED RETURNS/REPORTING CHANGES IN OTHER STATES

The Department may issue a notice of deficiency at any time when a taxpayer has failed to report ANOTHER STATE'S change affecting base income allocable to Illinois. The same general requirements which apply for the reporting of a change to the federal return, apply to reporting these changes. (Public Act 85-731, effective for state changes occurring on or after January 1, 1988)

#### CHECK-OFF FUNDS

Two new check-offs for charitable contributions appear on the 1987 IL-1040. They are: The United States Olympic Committee Fund and Assistance

Page 4

to the Blind Fund. Contributions of up to \$10 per taxpayer may be made from the overpayment. (Public Act 85-380 and 85-409)

#### CREDITS

The excess amount of income tax investment credit attributable to "High Impact Businesses" may be carried forward for five years following the excess credit year. (Public Act 85-731, change effective for years

ending on or after December 31, 1987)

The excess amount of income tax credit for replacement tax paid may be carried forward for five years following the excess credit year. The three-year carryback provision is deleted. (Public Act 85-731, changes effective for tax years ending on or after December 31, 1986)

#### SUBTRACTION MODIFICATIONS

A new subtraction is provided for all taxpayers who take the federal credit for amounts repaid under "claim of right." The subtraction is equal to the amount which would have been deducted from income had the federal credit not been claimed. (Public Act 85-731, change effective for tax years ending on or after December 31, 1987)

The subtraction to partnerships for amounts distributable to entities subject to the replacement income tax is clarified to specifically include amounts distributable to organizations which are exempt from federal income tax. (Public Act 85-731)

#### UNITARY

In certain circumstances, companies using one-factor apportionment formulas may be combined in the same unitary group with companies using three-factor apportionment formulas. Specifically, a three-factor insurance holding company may be combined with its one-factor insurance companies. Also, a three-factor transportation services holding company may be combined with its one-factor transportation services subsidiaries. (Three-factor financial holding companies are already allowed to be combined with their one-factor financial subsidiaries). (Public Act 85-731, change effective for tax years ending on or after December 31, 1987)

#### UNITARY COMBINED REPORTING

Corporate members (other than S corporations) of the same unitary business group may file a combined Illinois return even if all the members do not share the same taxable year. (Public Act 85-731, change effective for tax years ending on or after December 31, 1987)

Roger D. Sweet  
Director of Revenue

Issued: April 1988

•