

## Income/Franchise:

### Illinois DOR Publishes Guidance on Whether a Partnership Interest is a Qualifying Investment Security

*Addendum to the 2024 IL-1065 Instructions*, Ill. Dept. of Rev. (4/25). The Illinois Department of Revenue (Department) recently published guidance on determining when a partnership's interest in another partnership, including a limited liability company (LLC), is considered a qualifying investment security. In it, the Department states that it will follow a four-factor test as established by federal courts when determining whether an interest qualifies as an "investment contract." As a result, an interest in a partnership is considered an investment contract, and, therefore, a security, if it meets all of the factors under this test. The Department also highlights that a quick predetermination of whether a partnership interest will be considered a security can be made by comparing the organizational structure of the partnership or LLC, along with the rights and duties of the partners or members, with the organization structure of a corporation. Specifically, the more a partner's rights, powers, duties, and obligations resemble those of a director or manager of a corporation, the less likely the partnership interest will be considered a security. Alternatively, the more a partner's rights, powers, duties, and obligations resemble those of a shareholder in a corporation, the more likely the partnership interest will be considered a security. The Department also notes that it will make certain presumptions when determining whether a partnership interest is considered a security, which are based on the four-factor investment contract test applied to the common circumstances associated with the type of partnership. Please contact us with any questions.

**URL:**

<https://tax.illinois.gov/content/dam/soi/en/web/tax/forms/incometax/documents/currentyear/business/partnership/il-1065-instr-addendum.pdf>

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