

ILLINOIS INDEPENDENT
TAX TRIBUNAL

ALLEN POTESHMAN AND SUMIE)
OKAZAKI,)
)
Petitioners,)
)
v.) No. 23TT09
)
)
ILLINOIS DEPARTMENT)
OF REVENUE,)
)
Respondent.

NOTICE OF FILING

To: James R. Reynolds
Illinois Department of Revenue Office of Legal Services
555 W. Monroe St., Ste. 1100
Chicago, IL 60601
James.R.Reynolds@Illinois.gov

PLEASE TAKE NOTICE that on the 17th day of February, 2023, we filed with the Illinois Independent Tax Tribunal, 160 N. LaSalle Street, Room N506, Chicago, IL 60601, Allen Poteshman and Sumie Okazaki's **Petition**, a copy of which accompanies this notice and is served on you herewith.

Respectfully submitted,

**ALLEN POTESHMAN and
SUMIE OKAZAKI,**
Petitioners

By: 
Petitioners' Attorney

Open Weaver Banks (obanks@hodgsonruss.com)
Hodgson Russ LLP
25 Main St., Suite 605
Hackensack, New Jersey 07601
646-218-7524

NOTICES

4. Petitioners received a Notice of Claim Denial dated January 18, 2023, for tax year ending December 31, 2018 (the “2018 Notice”), that was addressed to their accountant. A true and accurate copy of the 2018 Notice is attached as Exhibit A.

5. Petitioners received a Notice of Claim Denial dated December 21, 2022, for tax year ending December 31, 2019 (the “2019 Notice”). A true and accurate copy of the 2019 Notice is attached as Exhibit B.

6. Petitioners received a Notice of Claim Denial dated January 6, 2023, for tax year ending December 31, 2020 (the “2020 Notice”). A true and accurate copy of the 2020 Notice is attached as Exhibit C.

7. The notices described in the preceding paragraphs are referred to herein as the “Notices” and the tax years covered by the Notices are referred to herein as the “Years at Issue.”

JURISDICTION

8. Petitioners bring this action pursuant to the Illinois Independent Tax Tribunal Act (“Tribunal Act”), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

9. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 of the Tribunal Act because the amount of tax at issue in the Notices is over \$15,000.

BACKGROUND

10. During the Years at Issue, Petitioners maintained their principal residence at 180 East 88th Street, Apartment 8A, New York, New York 10128-2280 and were subject to New York State and New York City personal income tax on all their income.

11. Petitioners filed Illinois income tax returns for the Years at Issue as nonresidents.

12. On July 2, 2018, Petitioner, Allen Poteshman, began employment with Citadel Americas LLC (“Citadel”) as the Managing Director, Head of Equity Statistical Arbitrage Research.

13. During Mr. Poteshman’s time working for Citadel, Mr. Poteshman was dually assigned to work out of Citadel’s New York City and Chicago offices.

14. Mr. Poteshman performed the same services in Citadel’s New York City and Chicago offices.

15. Mr. Poteshman had assigned office space in Citadel’s New York City and Chicago offices.

16. Mr. Poteshman’s employment with Citadel ended on May 15, 2019.

17. In connection with Mr. Poteshman’s separation, Citadel made a separation payment to Mr. Poteshman in 2019 (“Separation Payment”).

18. In connection with Mr. Poteshman’s separation, Citadel agreed to make 15 monthly non-compete payments to Mr. Poteshman in 2019 and 2020 (“Non-compete Payments”).

19. For the Years at Issue, Citadel withheld Illinois personal income tax from all payments made to Mr. Poteshman, including his compensation, Separation Payment and Non-compete Payments (collectively “Citadel Payments”).

20. Petitioners filed their Illinois Income Tax Returns for each of the Years at Issue consistently with Citadel’s treatment of the Citadel Payments as subject to Illinois income tax.

21. The entirety of Petitioners’ income from Citadel during the Years at Issue was treated as Illinois taxable income on Petitioners’ original Illinois Income Tax Returns for each of the Years at Issue.

22. On or about July 19, 2022, Petitioners filed a 2018 Form IL-1040-X, Amended Individual Income Tax Return claiming a refund of \$33,552 for the overpayment of income tax resulting from Citadel's over-withholding of Illinois income tax on the 2018 portion of the Citadel Payments.

23. On or about July 19, 2022, Petitioners filed a 2019 Form IL-1040-X, Amended Individual Income Tax Return claiming a refund of \$233,107 for the overpayment of income tax resulting from Citadel's over-withholding of Illinois income tax on the 2019 portion of the Citadel Payments.

24. On or about July 19, 2022, Petitioners filed a 2020 Form IL-1040-X, Amended Individual Income Tax Return, claiming a refund of \$10,540 for the overpayment of income tax resulting from Citadel's over-withholding of Illinois income tax on the 2020 portion of the Citadel Payments.

25. The refund claims described in the preceding paragraphs are referred to herein as the "Refund Claims."

26. The Department issued the Notices denying the Refund Claims for each of the Years at Issue.

COUNT I

Petitioners are entitled to refunds for the overpayment of income tax because the entirety of Mr. Poteshman's income from Citadel was not compensation paid in Illinois

27. Petitioners repeat and reallege the statements in above paragraphs 1 through 26.

28. As Mr. Poteshman is a nonresident, his compensation is allocated to Illinois only if it is determined that such compensation was paid in Illinois, according to 35 ILCS 5/304(a)(2)(B). 35 ILCS 5/302.

29. For the tax years ending prior to December 2020, compensation is paid in Illinois, according to 35 ILCS 5/304(a)(2)(B), if:

(i) The individual's service is performed entirely within this State;

(ii) The individual's service is performed both within and without this State, but the service performed without this State is incidental to the individual's service performed within this State; or

(iii) For tax years ending prior to December 31, 2020, some of the service is performed within this State and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this State, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

30. For the tax years ending on or after December 31, 2020, compensation is paid in Illinois, according to 35 ILCS 5/304(a)(2)(B), if:

(i) The individual's service is performed entirely within this State;

(ii) The individual's service is performed both within and without this State, but the service performed without this State is incidental to the individual's service performed within this State; or

(iii) 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.

31. In 2018 and 2019, Mr. Poteshman worked from Citadel's New York City and Chicago offices, so his services were not performed entirely within Illinois.

32. An individual's services performed outside of Illinois are incidental to services performed in Illinois if the services outside of Illinois are "necessary to, or supportive of, the primary service performed by the employee or that is temporary or transitory in nature or consists of isolated transactions." Ill. Admin. Code 100.3120(a)(2)(B).

33. While Mr. Poteshman's services were performed in Illinois and New York, Petitioner's New York services were not incidental to his services in Illinois, as his services in New York were the same primary services he performed in Illinois and were performed in New York on a regular and recurring basis.

34. An individual's base of operations "refers to the place or fixed center from which the individual works." Ill. Admin. Code 100.3120(a)(3)(B).

35. While Mr. Poteshman's services were performed in Illinois and New York in 2018 and 2019, Mr. Poteshman's base of operations was not in Illinois, as he was dually assigned to Citadel's New York City and Chicago offices.

36. While Mr. Poteshman's services were performed in Illinois and New York in 2018 and 2019, Illinois was not the place from which Mr. Poteshman's service was directed or controlled, as Mr. Poteshman was dually assigned to Citadel's New York City and Chicago offices.

37. As Mr. Poteshman was dually assigned to Illinois and New York, the Department's regulations require that his compensation paid in Illinois must be determined in a manner so that if the same rule is in effect in New York, "an item of compensation would constitute compensation 'paid in' only one state." Ill. Admin. Code 100.3120(a)(3)(B).

38. Thus, because the Department included the entirety of Mr. Poteshman's Citadel Payments as Illinois taxable income, and as all of Mr. Poteshman's income from Citadel was not compensation paid in Illinois, Petitioners are entitled to a refund for the overpayment of income tax.

WHEREFORE, Petitioners pray that the Tribunal enter an Order which:

- a) finds and declares that Petitioners are entitled to their Refund Claims because all of Mr. Poteshman's Citadel Payments were not compensation paid in Illinois;
- b) enters judgment in favor of Petitioners and against the Department and orders the Department to reverse the Notices;
- c) causes the Department to refund all amounts set forth in the Refund Claims with all applicable interest; and
- d) provides such other relief as the Tribunal may deem just and appropriate.

COUNT II

Petitioners are entitled to a refund for the overpayment of income tax because the

Separation Payment was not compensation

39. Petitioners repeat and reallege the statements in above paragraphs 1 through 26.

40. Illinois defines the term “compensation” to mean “wages, salaries, commissions and any other form of remuneration paid to employees for personal services.” 35 ILCS 5/1501(a)(3).

41. As Mr. Poteshman’s Separation Payment was paid to him irrespective of his employment with Citadel, and the personal services he performed during such time, the Separation Payment is not compensation.

42. Therefore, because the Department included the Separation Payment as Illinois taxable compensation, Petitioners are entitled to a refund for the overpayment of income tax.

WHEREFORE, Petitioners pray that the Tribunal enter an Order which:

- a) finds and declares that Petitioners are entitled to their Refund Claim with respect to the 2019 Separation Payment that did not constitute compensation paid in Illinois;
- b) enters judgment in favor of Petitioners and against the Department and orders the Department to reverse the 2019 Notice;
- c) causes the Department to refund all amounts denied in the 2019 Notice with respect to the Separation Payment; and
- d) provides such other relief as the Tribunal may deem just and appropriate.

COUNT III

Petitioners are entitled to a refund for the overpayment of income tax because the

Non-compete Payments were not compensation

43. Petitioners repeat and reallege the statements in above paragraphs 1 through 26.

44. As stated above, Illinois defines the term “compensation” to mean “wages, salaries, commissions and any other form of remuneration paid to employees for personal services.” 35 ILCS 5/1501(a)(3).

45. As Mr. Poteshman’s Non-compete Payments were paid to him irrespective of his employment with Citadel, and the personal services he performed during such time, the Non-compete Payments were not compensation.

46. Therefore, because the Department included the Non-compete Payments as Illinois taxable compensation, Petitioners are entitled to a refund for the overpayment of income tax.

WHEREFORE, Petitioners pray that the Tribunal enter an Order which:

- a) finds and declares that Petitioners are entitled to their Refund Claims with respect to the 2019 and 2020 Non-Compete Payments that did not constitute compensation paid in Illinois;
- b) enters judgment in favor of Petitioners and against the Department and orders the Department to reverse the 2019 Notice and 2020 Notice;
- c) causes the Department to refund all amounts denied in the 2019 Notice and 2020 Notice with respect to the Non-Compete Payments; and
- d) provides such other relief as the Tribunal may deem just and appropriate.

COUNT IV

Petitioners are entitled to a refund for the overpayment of income tax because the denial of their refund claim unconstitutionally burdens interstate commerce

47. Petitioners repeat and reallege the statements in above paragraphs 1 through 26.

48. Under the Commerce Clause of the U.S. Constitution, a state tax creates an unconstitutional burden on interstate commerce if the tax is not fairly apportioned or otherwise discriminates against interstate commerce. *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977).

49. Individual taxpayers are entitled to the same constitutional protections as corporate taxpayers. *Comptroller of the Treasury of Md. v. Wynne*, 575 U.S. 542, 553-54 (2015).

50. In the case of nonresident individuals, such as Petitioners, the U.S. Supreme Court has recognized the narrow scope of a State's power to impose a personal income tax based solely on the source of the income in the State. See *Shaffer v. Carter*, 252 U.S. 37 (1920) (upholding Oklahoma tax on nonresidents that applied only to income derived from nonresident's property owned within Oklahoma and business, trade, or profession carried on in Oklahoma) and *Oklahoma Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450, 463, n.11 (1995) ("For nonresidents, in contrast, jurisdictions generally may tax only income earned within the jurisdiction.").

51. The U.S. Supreme Court also set forth an "external consistency" test to determine whether a tax is fairly apportioned and does not reach beyond the "portion of value that is fairly attributable to economic activity within the taxing [s]tate." *Goldberg v. Sweet*, 488 U.S. 252, 261 (1989).

52. The Department's taxation of the entirety of Mr. Poteshman's income from Citadel, even though Mr. Poteshman earned a portion of that income in New York, discriminates against

interstate commerce and does not satisfy the external consistency test because it reaches beyond what is fairly attributable to Mr. Poteshman's activities within Illinois.

53. Thus, Petitioners are entitled to a refund for the overpayment of income tax, as a denial of such is an unconstitutional burden to interstate commerce.

WHEREFORE, Petitioners pray that the Tribunal enter an Order which:

- a) finds and declares that the Department's Notices violate the Commerce Clause and Petitioners are entitled to their Refund Claims;
- b) enters judgment in favor of Petitioners and against the Department and orders the Department to reverse the Notices;
- c) causes the Department to refund all amounts set forth in the Refund Claims with all applicable interest; and
- d) provides such other relief as the Tribunal may deem just and appropriate.

COUNT V

Petitioners are entitled to a refund for the overpayment of income tax because the denial of their refund claim violates the Illinois Uniformity Clause

54. Petitioners repeat and reallege the statements in above paragraphs 1 through 26.

55. As stated in paragraphs 29 and 30 above, for tax years ending prior to December 31, 2020, Illinois law contained no general provision apportioning compensation to Illinois based on the actual days worked in Illinois relative to the total number of days worked within and without Illinois.

56. However, Illinois law created a separate classification that distinguished the tax treatment of nonresidents generally from nonresident professional athletes, in 35 ILCS 5/304(a)(2)(B)(i)-(iii) and 35 ILCS 5/304(a)(2)(B)(iv), which during the Years at Issue provided:

The Illinois source income of a nonresident individual who is a member of a professional athletic team includes the portion of the individual's total compensation for services performed as a member of a professional athletic team during the taxable year which the number of duty days spent within this State performing services for the team in any manner during the taxable year bears to the total number of duty days spent both within and without this State during the taxable year.

57. The purpose of the separate classification for nonresident professional athletic team members was to provide relief from multiple state taxation. IL s. Tran. 2005 Reg. Sess. No. 45, Sen. Clayborne (May 20, 2005).

58. Nonresidents who are not members of professional athletic teams but who also work in multiple states were not afforded the same relief from multiple state taxation in years ending prior to December 31, 2020.

59. The uniformity clause of the Illinois Constitution states, in relevant part, that “[i]n any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly.” ILL. CONST. Art. 9, § 2.

60. To survive scrutiny under the uniformity clause, a tax classification must meet two requirements. It must: “(1) be based on a real and substantial difference between the people taxed and those not taxed, and (2) bear some reasonable relationship to the object of the legislation or to public policy.” *Byrd v. Hamer*, 408 Ill.App.3d 467, 490 (Ill. App. Ct. 2011) (quoting *Arangold Corp. v. Zehnder*, 204 Ill.2d 142, 153 (2003)).

61. As the different tax treatment of nonresidents in general and nonresidents who are members of professional athletic teams is not based on a real and substantial difference between the two, the first requirement of the uniformity clause is not satisfied, and Illinois's failure to permit

all nonresidents to apportion compensation to Illinois based on the actual days worked in Illinois violates the uniformity clause of the Illinois Constitution.

62. Further, as the different tax treatment of nonresidents in general and nonresidents who are members of professional athletic teams also does not bear some reasonable relationship to the object of the legislation (to provide relief from multiple state taxation), the second requirement of the uniformity clause is not satisfied, and Illinois's failure to permit all nonresidents to apportion compensation to Illinois based on the actual days worked in Illinois violates the uniformity clause of the Illinois Constitution.

WHEREFORE, Petitioners pray that the Tribunal enter an Order which:

- a) finds and declares that the Department's Notices violate the uniformity clause and Petitioners are entitled to their Refund Claims;
- b) enters judgment in favor of Petitioners and against the Department and orders the Department to reverse the Notices;
- c) causes the Department to refund all amounts set forth in the Refund Claims with all applicable interest; and
- d) provides such other relief as the Tribunal may deem just and appropriate.

CONCLUSION AND RELIEF REQUESTED

THEREFORE, as supported by the facts and COUNT I, COUNT II, COUNT III, COUNT IV and COUNT V presented above, Petitioners request that the Notices be modified or cancelled and that Petitioners are issued the requested refunds at issue with all applicable interest.

Respectfully submitted,

**ALLEN POTESHMAN and
SUMIE OKAZAKI,**
Petitioners

By: 
Petitioners' Attorney

Open Weaver Banks (obanks@hodgsonruss.com)
Hodgson Russ LLP
25 Main St., Suite 605
Hackensack, New Jersey 07601
646-218-7524

Exhibit A

Notice of Claim Denial
for Form IL-1040-X, Amended Individual Income Tax Return



January 18, 2023



Letter ID: [REDACTED]
Account ID: [REDACTED]
Reporting period: December 31, 2018

[REDACTED]
MAX EISIKOVIK
[REDACTED]

Dear Taxpayer:

We are writing regarding your 2018 Form IL-1040-X, Amended Individual Income Tax Return, dated April 27, 2022.

Based on our review, we denied your claim for refund of overpayment of income tax. This review is not the result of an audit.

We changed Line 33 from \$0.00 to \$12.37.

We changed the amount of previous overpayments on Line 33 of your IL-1040X to the amount shown in our records.

We changed Line 30 from \$174.00 to \$186.37.

Form IL-1040-X should include all tax payments made on your original return.

We changed the amount of payments to the amount shown in our records.

We changed Schedule NR, Column B, Line 5 from \$4,531,940.00 to \$5,209,763.00.

We corrected the Illinois base income on your Schedule NR, Nonresident and Part-Year Resident Computation of Illinois Tax, Step 5. We changed the amount of wages on your Schedule NR to agree with the Illinois wages on your W-2 forms. We tax wages earned in Illinois regardless of whether you earned these wages while you were an Illinois resident, a nonresident, or part-year resident.

If you disagree with the changes made and you are

- a nonresident or part-year resident of Illinois, send us a statement from your employer, on company letterhead, stating the correct amount of Illinois wages and Illinois tax withheld. We will not accept a letter from a tax preparer.
- a part-year resident moving into or out of a reciprocal state, send us a statement from your employer, on company letterhead, stating the correct amount of wages earned as an Illinois resident. We will not accept a letter from a tax preparer.
- a professional athlete, send us a statement from your employer, on company letterhead, stating the correct amount of Illinois wages And Illinois tax withheld And a detailed calculation of your duty days in Illinois.
- a U.S. nonresident alien, send us copies of Pages 1, 2, And 5 of your federal Form 1040NR Or copies of Pages 1 And 2 of your federal Form 1040NR-EZ, U.S. Nonresident Alien Income Tax Return along with your protest.

How to Contest this Notice

If you do not agree with our changes, you may contest this notice by following the instructions listed below:

- If the amount of tax at issue, exclusive of penalty and interest, is more than \$15,000, or if no tax deficiency is

assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).

- In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, must reconsider the tax at issue, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, the amount of tax at issue will become final. A protest of this notice does not preserve your rights under any other notice.
- Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total deficiency under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

If you do not timely protest this notice or pay the balance due in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m., or visit our web site at tax.illinois.gov. Our address and telephone number are below.

Steve B
Revenue Tax Specialist
INDIVIDUAL PROCESSING DIVISION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19023
SPRINGFIELD IL 62794-9023

(217) 524-4301
(217) 557-5353 fax

Enclosures: Form EAR-14, Format for Filing a Protest for Income Tax

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to department notices by asking questions, paying the amount due, or providing proof to refute the departments findings.
- You have the right to appeal department decisions, in many instances, within specified time periods, by asking for department review, or by taking the issue to court.
- If you have overpaid your taxes, you have the right to a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other department procedures, you may contact us. Our contact information is on the front of this notice.

4 What adjustments or issues are being protested?

5 What facts are you relying on in making your protest?

6 What law(s) are you relying on in making your protest?

7 What documentation or attachments are being submitted with your protest?

8 Please provide any closing remarks you would like to make regarding this matter.

Note: If additional space is needed to answer any of these questions, you may attach additional sheets using the same format.

Step 3: Sign below

The taxpayer must provide a written signature certifying that the contents and facts stated are true, correct, and complete. If the protest is being prepared by a representative for the taxpayer, the preparer must also provide a written signature certifying the contents. In addition, the taxpayer's representative must have previously provided a Form IL-2848, Power of Attorney, or must submit one with the protest.

Execution and Certificate of Taxpayer(s) or Taxpayer's Representative

By Taxpayer(s):

Under penalties of perjury, I hereby certify and declare under the penalties of perjury that I have examined this protest and any attachments and that to the best of my knowledge the facts stated are true, correct and complete.

Taxpayer's signature Date

Taxpayer's signature Date

By Taxpayer's Representative:

Under penalties of perjury, I hereby certify and declare that I have prepared the protest and that to the best of my knowledge the facts stated herein and all attachments are true, correct and complete. A Power of Attorney (Form IL-2848) has been previously provided or is enclosed.

Taxpayer's representative's signature Date

Taxpayer's representative's signature Date

Taxpayer's representative's signature Date

Step 4: Mail to Illinois Department of Revenue

Address and mail your written protest/request for hearing to us using the return address printed on the Notice of Deficiency or Notice of Claim Denial you are protesting. Be sure to use the complete address including any unit name and P.O. Box number.

Exhibit B

Notice of Claim Denial
for Form IL-1040-X, Amended Individual Income Tax Return



December 21, 2022



Letter ID: [REDACTED]

Account ID: [REDACTED]

Reporting period: December 31, 2019

[REDACTED]
ALLEN M. POTESHMAN and SUMIE OKAZAKI
180 E 88TH ST APT 8A
NEW YORK NY 10128-2280

Dear Taxpayer:

We are writing regarding your 2019 Form IL-1040-X, Amended Individual Income Tax Return, dated July 19, 2022.

Based on our review, we denied your claim for refund of overpayment of income tax. This review is not the result of an audit.

We changed Line 3 from \$57,671.00 to \$115,342.00.

We did not receive a copy of your corrected Schedule M, Other Additions and Subtractions for Individuals. Please send us this information along with your protest.

We changed Schedule NR, Column B, Line 5 from \$27,451,560.00 to \$32,160,780.00.

We corrected the Illinois base income on your Schedule NR, Nonresident and Part-Year Resident Computation of Illinois Tax, Step 5. We changed the amount of wages on your Schedule NR to agree with the Illinois wages on your W-2 forms. We tax wages earned in Illinois regardless of whether you earned these wages while you were an Illinois resident, a nonresident, or part-year resident.

If you disagree with the changes made and you are

- a nonresident or part-year resident of Illinois, send us a statement from your employer, on company letterhead, stating the correct amount of Illinois wages and Illinois tax withheld. We will not accept a letter from a tax preparer.
- a part-year resident moving into or out of a reciprocal state, send us a statement from your employer, on company letterhead, stating the correct amount of wages earned as an Illinois resident. We will not accept a letter from a tax preparer.
- a professional athlete, send us a statement from your employer, on company letterhead, stating the correct amount of Illinois wages And Illinois tax withheld And a detailed calculation of your duty days in Illinois.
- a U.S. nonresident alien, send us copies of Pages 1, 2, And 5 of your federal Form 1040NR Or copies of Pages 1 And 2 of your federal Form 1040NR-EZ, U.S. Nonresident Alien Income Tax Return along with your protest.

How to Contest this Notice

If you do not agree with our changes, you may contest this notice by following the instructions listed below:

- If the amount of tax at issue, exclusive of penalty and interest, is more than \$15,000, or if no tax deficiency is assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest

with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, must reconsider the tax at issue, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, the amount of tax at issue will become final. A protest of this notice does not preserve your rights under any other notice.

- *Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total deficiency under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.*

If you do not timely protest this notice or pay the balance due in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m., or visit our web site at tax.illinois.gov. Our address and telephone number are below.

Lauren G
Revenue Tax Specialist
INDIVIDUAL PROCESSING DIVISION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19023
SPRINGFIELD IL 62794-9023

(217) 782-6834
(217) 557-5353 fax

Enclosures: Form EAR-14, Format for Filing a Protest for Income Tax

Notice of Claim Denial

ALLEN M. POTESHMAN and SUMIE
OKAZAKI
180 E 88TH ST APT 8A
NEW YORK NY 10128-2280

Summary



Letter ID: [REDACTED]
Account ID: [REDACTED]
Reporting Period: December 2019

Form IL-1040-X Financial Details

	<i>Amount</i>
Total amount you owe	0.00

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to department notices by asking questions, paying the amount due, or providing proof to refute the departments findings.
- You have the right to appeal department decisions, in many instances, within specified time periods, by asking for department review, or by taking the issue to court.
- If you have overpaid your taxes, you have the right to a credit (or, in some cases, a refund) of that overpayment.
- For more information about these rights and other department procedures, you may contact us. Our contact information is on the front of this notice.



EAR-14 Format for Filing a Protest for Income Tax

General information

You may file a written protest against our

- Notice of Deficiency, or
- Notice of Claim Denial of a claim for refund of Illinois income tax.

You may also request a hearing.

Note: A notice and demand for payment cannot be protested.

Your written protest must clearly outline and define the grounds upon which your protest is based. You must file your written protest within 60 days of the date of our notice. If you file

an acceptable protest on time, we must reconsider the proposed assessment or claim denial, and if requested, grant you or your authorized representative a hearing as required under Sections 908 and 910 of the Illinois Income Tax Act. To assist you in filing your protest, we have prepared this form for your convenience. You must use this form in order to ensure all the necessary information is provided, thus expediting the process for handling unagreed income tax cases.

Note: If you do not respond on time, the deficiency will become a Final Assessment as authorized under Sections 903(a)(2) and 904(d), or (if applicable) the denial of your claim for refund will become final under Section 909(f).

Step 1: Provide the following information

1 Identification number FEIN or SSN _____

2 Taxpayer's name _____

3 Street address _____

P.O. Box (if applicable) _____

City _____ State _____ Zip Code _____

4 Taxpayer's phone number _____

Taxpayer's representative's phone number (if applicable) _____

5 Spouse's SSN (if applicable) _____

Note: If the address on the return or claim is different, you must also provide that address.

6 Street address _____

P.O. Box (if applicable) _____

City _____ State _____ Zip Code _____

Step 2: Complete the following

You must provide the following information in order for us to process your protest/request for a hearing.

Note: For a protest to be valid, you must set forth the grounds on which such protest is based. [ITA Sections 908(a)/910(a) and 86 Ill. Adm. Code Sec. 200.120]

1 Write the date the Notice of Deficiency or the Notice of Claim Denial was issued.

Notice of Deficiency / / Notice of Claim Denial / / /

 Month Day Year Month Day Year

2 Complete the following (as applicable) to your protest.

Tax year ended	Date return or claim was filed	Amount of deficiency	Amount of claim disallowed
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Totals:		_____	_____

3 Do you want a hearing in the matter you have outlined in your written protest?

Yes _____ No _____ (If "no," see note below.)

Note: If you fail to request a hearing within the 60 day protest period afforded to you in our notice, your right to a hearing will be forfeited.

4 What adjustments or issues are being protested?

5 What facts are you relying on in making your protest?

6 What law(s) are you relying on in making your protest?

7 What documentation or attachments are being submitted with your protest?

8 Please provide any closing remarks you would like to make regarding this matter.

Note: If additional space is needed to answer any of these questions, you may attach additional sheets using the same format.

Step 3: Sign below

The taxpayer must provide a written signature certifying that the contents and facts stated are true, correct, and complete. If the protest is being prepared by a representative for the taxpayer, the preparer must also provide a written signature certifying the contents. In addition, the taxpayers representative must have previously provided a Form IL-2848, Power of Attorney, or must submit one with the protest.

Execution and Certificate of Taxpayer(s) or Taxpayer's Representative

By Taxpayer(s):

Under penalties of perjury, I hereby certify and declare under the penalties of perjury that I have examined this protest and any attachments and that to the best of my knowledge the facts stated are true, correct and complete.

Taxpayer's signature Date

Taxpayer's signature Date

By Taxpayer's Representative:

Under penalties of perjury, I hereby certify and declare that I have prepared the protest and that to the best of my knowledge the facts stated herein and all attachments are true, correct and complete. A Power of Attorney (Form IL-2848) has been previously provided or is enclosed.

Taxpayer's representative's signature Date

Taxpayer's representative's signature Date

Taxpayer's representative's signature Date

Step 4: Mail to Illinois Department of Revenue

Address and mail your written protest/request for hearing to us using the return address printed on the Notice of Deficiency or Notice of Claim Denial you are protesting. Be sure to use the complete address including any unit name and P.O. Box number.

Exhibit C

Notice of Claim Denial
for Form IL-1040-X, Amended Individual Income Tax Return



[REDACTED]

ALLEN M. POTESHMAN and SUMIE OKAZAKI
180 E 88TH ST APT 8A
NEW YORK NY 10128-2280

January 6, 2023
[REDACTED]
Letter ID: [REDACTED]
Account ID: [REDACTED]
Reporting period: December 31, 2020

Dear Taxpayer:

We are writing regarding your 2020 Form IL-1040-X, Amended Individual Income Tax Return, dated April 27, 2022.

Based on our review, we denied your claim for refund of overpayment of income tax. This review is not the result of an audit.

We changed Schedule NR, Column B, Line 5 from \$1,127,077.00 to \$1,340,004.00.

We corrected the Illinois base income on your Schedule NR, Nonresident and Part-Year Resident Computation of Illinois Tax, Step 5. Wages earned in Illinois are taxable to Illinois and are subject to withholding. The Illinois tax withheld on your Form W-2, Wage and Tax Statement, was used to pay your Illinois tax liability.

If your wages were earned outside Illinois and your employer withheld Illinois tax in error, send us a letter from your employer, on company letterhead, stating the correct amount of Illinois wages and Illinois tax withheld along with your protest. We will not accept a letter from a tax preparer.

How to Contest this Notice

If you do not agree with our changes, you may contest this notice by following the instructions listed below:

- If the amount of tax at issue, exclusive of penalty and interest, is more than \$15,000, or if no tax deficiency is assessed but the total penalties and interest is more than \$15,000, file a petition with the Illinois Independent Tax Tribunal within 60 days of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, must reconsider the tax at issue, and if requested, grant you or your authorized representative an administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to rules adopted by the Department and is presided over by an administrative law judge. Submit your protest on Form EAR-14, Format for Filing a Protest for Income Tax (available on our website at tax.illinois.gov). If we do not receive your protest within 60 days, the amount of tax at issue will become final. A protest of this notice does not preserve your rights under any other notice.
- Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue, you may, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total deficiency under protest using Form RR-374, Notice of Payment Under Protest (available on our website at tax.illinois.gov), and file a complaint with the circuit court for a review of our determination.

If you do not timely protest this notice or pay the balance due in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m., or visit our web site at tax.illinois.gov. Our address and telephone number are below.

James P
Revenue Tax Specialist II
INDIVIDUAL PROCESSING DIVISION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19023
SPRINGFIELD IL 62794-9023

(217) 557-7284
(217) 557-5353 fax

Enclosures: Form EAR-14, Format for Filing a Protest for Income Tax

Notice of Claim Denial

ALLEN M. POTESHMAN and SUMIE
OKAZAKI
180 E 88TH ST APT 8A
NEW YORK NY 10128-2280

Summary



Letter ID: [REDACTED]
Account ID: [REDACTED]
Reporting Period: December 2020

Form IL-1040-X Financial Details

	<i>Amount</i>
Total amount you owe	0.00

Taxpayer Bill of Rights

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws
- You have the right to respond, within specified time periods, to department notices by asking questions, paying the amount due, or providing proof to refute the departments findings
- You have the right to appeal department decisions, in many instances, within specified time periods, by asking for department review, or by taking the issue to court
- If you have overpaid your taxes, you have the right to a credit (or, in some cases, a refund) of that overpayment
- For more information about these rights and other department procedures, you may contact us. Our contact information is on the front of this notice



Illinois Department of Revenue

EAR-14 Format for Filing a Protest for Income Tax

General information

You may file a written protest against our

- Notice of Deficiency, or
- Notice of Claim Denial of a claim for refund of Illinois income tax.

You may also request a hearing.

Note: A notice and demand for payment cannot be protested.

Your written protest must clearly outline and define the grounds upon which your protest is based. You must file your written protest within 60 days of the date of our notice. If you file

an acceptable protest on time, we must reconsider the proposed assessment or claim denial, and if requested, grant you or your authorized representative a hearing as required under Sections 908 and 910 of the Illinois Income Tax Act. To assist you in filing your protest, we have prepared this form for your convenience. You must use this form in order to ensure all the necessary information is provided, thus expediting the process for handling unagreed income tax cases.

Note: If you do not respond on time, the deficiency will become a Final Assessment as authorized under Sections 903(a)(2) and 904(d), or (if applicable) the denial of your claim for refund will become final under Section 909(f).

Step 1: Provide the following information

<p>1 _____ Identification number FEIN or SSN</p> <p>2 _____ Taxpayer's name</p> <p>3 _____ Street address</p> <p>_____ P.O. Box (if applicable)</p> <p>_____ City _____ State _____ Zip Code _____</p> <p>4 _____ Taxpayer's phone number</p> <p>_____ Taxpayer's representative's phone number (if applicable)</p>	<p>5 _____ Spouse's SSN (if applicable)</p> <p>Note: If the address on the return or claim is different, you must also provide that address.</p> <p>6 _____ Street address</p> <p>_____ P.O. Box (if applicable)</p> <p>_____ City _____ State _____ Zip Code _____</p>
---	--

Step 2: Complete the following

You must provide the following information in order for us to process your protest/request for a hearing.

Note: For a protest to be valid, you must set forth the grounds on which such protest is based. [ITA Sections 908(a)/910(a) and 86 Ill. Adm. Code Sec. 200.120]

1 Write the date the Notice of Deficiency or the Notice of Claim Denial was issued.

Notice of Deficiency / / Notice of Claim Denial / /
 Month Day Year Month Day Year

2 Complete the following (as applicable) to your protest.

Tax year ended	Date return or claim was filed	Amount of deficiency	Amount of claim disallowed
Totals:			

3 Do you want a hearing in the matter you have outlined in your written protest?

Yes _____ No _____ (If "no," see note below.)

Note: If you fail to request a hearing within the 60 day protest period afforded to you in our notice, your right to a hearing will be forfeited.

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5 What facts are you relying on in making your protest?

6 What law(s) are you relying on in making your protest?

7 What documentation or attachments are being submitted with your protest?

8 Please provide any closing remarks you would like to make regarding this matter.

Note: If additional space is needed to answer any of these questions, you may attach additional sheets using the same format.

Step 3: Sign below

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Execution and Certificate of Taxpayer(s) or Taxpayer's Representative

By Taxpayer(s):

Under penalties of perjury, I hereby certify and declare under the penalties of perjury that I have examined this protest and any attachments and that to the best of my knowledge the facts stated are true, correct and complete.

Taxpayer's signature

Date

Taxpayer's signature

Date

By Taxpayer's Representative:

Under penalties of perjury, I hereby certify and declare that I have prepared the protest and that to the best of my knowledge the facts stated herein and all attachments are true, correct and complete. A Power of Attorney (Form IL-2848) has been previously provided or is enclosed.

Taxpayer's representative's signature

Date

Taxpayer's representative's signature

Date

Taxpayer's representative's signature

Date

Step 4: Mail to Illinois Department of Revenue

Address and mail your written protest/request for hearing to us using the return address printed on the Notice of Deficiency or Notice of Claim Denial you are protesting. Be sure to use the complete address including any unit name and P.O. Box number.

CERTIFICATE OF SERVICE

Undersigned counsel of record hereby certifies that she caused a copy of the foregoing **PETITION** to be served by electronic mail before the hour of 5:00 p.m. on the 17th day of February, 2023, to the following email address:

James R. Reynolds
Illinois Department of Revenue Office of Legal Services
555 W. Monroe St., Ste. 1100
Chicago, IL 60661
James.R.Reynolds@Illinois.gov



A handwritten signature in blue ink, appearing to read "Jennifer D. Jones", is written over a horizontal line.