

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

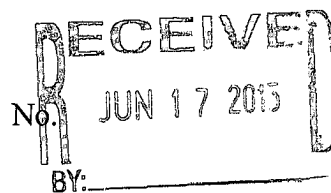
PHILIP PIAZZA and VERAMEL LIM

Petitioner,

v.

THE ILLINOIS DEPARTMENT OF REVENUE,

Defendant



NOTICE OF FILING

To: Illinois Department of Revenue
Office of Legal Services
100 W Randolph St., Ste. 7-900
Chicago, IL 60601

PLEASE TAKE NOTICE that on the 17th day of June, 2015, we filed with the Illinois Independent Tax Tribunal, 160 N. LaSalle Street, Room N506, Chicago, IL 60601 **Philip Piazza and Veramel Lim's Petition**, a copy of which accompanies this notice and is served on you herewith.

Respectfully submitted,

PHILIP PIAZZA and VERAMEL LIM
Petitioner

By: 
One of Petitioner's Attorneys

David A. Hughes (dhughes@hmblaw.com)
Christopher T. Lutz (clutz@hmblaw.com)
Samantha K. Breslow (sbreslow@hmblaw.com)
Horwood Marcus & Berk Chartered
500 W. Madison Street, Suite 3700
Chicago, IL 60661
(312) 606-3200

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

PHILIP PIAZZA and VERAMEL LIM)	
)	
Petitioner,)	
)	
v.)	No.
)	
THE ILLINOIS DEPARTMENT OF REVENUE,)	
)	
Defendant)	

PETITION

Petitioner, Veramel Lim, individually and as Administrator of the Estate of Philip Piazza, deceased (“Petitioner”), by and through her attorneys, Horwood Marcus & Berk Chartered, complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

PARTIES

1. Petitioner Veramel Lim is an individual. Her principal home address is 6043 N Kirkwood Ave., Chicago, IL 60646-5021.
2. [REDACTED]
3. Philip Piazza (“Piazza”) is deceased
4. Petitioner is represented by David Hughes, Christopher Lutz, and Samantha Breslow of Horwood Marcus & Berk Chartered, located at 500 West Madison St., Suite 3700, Chicago, Illinois 60661, who can be reached at 312-606-3212 or dhughes@hmblaw.com; 312-606-3222 or clutz@hmblaw.com; and sbreslow@hmblaw.com or 312-606-3206, respectively.
5. Piazza was an officer and shareholder of PMG, Inc. (“PMG”), which operates a restaurant and bar, McGee’s Tavern & Grille, located at 950 W. Webster Ave., Chicago, IL 60614.

6. Piazza died on February 23, 2014, and Petitioner, his surviving spouse, has been appointed the Administrator of the Estate of Philip A. Piazza ("Estate") on April 18, 2014, by the Circuit Court of Cook County, Probate Division, in Case No. 2014002149.

7. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

NOTICES

8. On February 4, 2015, the Department issued the following three Notices of Deficiency ("Notices") (true and accurate copies attached hereto as Exhibit A) to the Petitioner for the tax periods January 1, 2008 through December 31, 2010 ("Periods in Issue"):

Tax Year	Tax Deficiency and Penalty	Interest	Total Deficiency
2008	\$9,812.60	\$2,361.92	\$12,174.52
2009	\$5,662.02	\$586.67	\$6,248.69
2010	\$5,122.80	\$377.09	\$5,499.89
TOTAL			\$23,923.10

9. Unless otherwise stated, all statements in this Petition relate to the Periods in Issue.

JURISDICTION

10. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100 and the Illinois Income Tax Act ("Income Tax Act"), 35 ILCS 5/101 et. seq.

11. The Tribunal has jurisdiction over this matter pursuant to Sections 1-15, 1-45, and 1-50 of the Tribunal Act.

12. Petitioner timely filed separate protests and requests for an administrative hearing with the Department for each of the Notices on April 3, 2015.

13. The Department's Chief Administrative Law Judge dismissed the protests on April 21, 2015 due to lack of jurisdiction because the deficiencies in the aggregate for the audit period exceed the statutory threshold of \$15,000. The dismissal letter is attached hereto as Exhibit B.

14. Under the Tax Tribunal's rules, a timely protest that has been dismissed by the Department for lack of jurisdiction may be filed with the Tax Tribunal within 60 days of the notice of such dismissal. Section 5000.310(a)(3).

BACKGROUND

15. PMG elected to be treated as an S Corporation and pass corporate income, losses, deductions, and credits through to its shareholders under Subchapter S of Chapter 1 of the Internal Revenue Code.

16. As an owner of PMG, Piazza received a distributable share of PMG's income.

17. For the Periods in Issue, Piazza timely reported this income on an Illinois Individual Income Tax Return (Form IL-1040) filed with the Department.

18. PMG uses a "point of sale" system in which all food and beverage sales are recorded at the time of the sale and tax is charged.

19. PMG's business operates on relatively slim margins compared to the industry standard.

20. While the standard industry markup is approximately two and a half times the cost of goods sold, PMG's markup is approximately one and a half times the cost of goods sold.

21. For the Periods in Issue, PMG paid income tax on all net income as reflected in PMG's books and records.

22. Pursuant to a sales tax audit, the Department refused to accept the gross receipts reported in PMG's books and records and reported on its Illinois sales tax returns and instead fabricated a gross receipts number by multiplying PMG's cost of goods sold by a factor of 2.5.

23. In accordance with the sales tax audit, the Department also increased PMG's taxable income for replacement tax purposes in order to reflect the increased gross receipts as determined by sales tax audit.

24. As a result of the increase in PMG's taxable income, the Department also increased Petitioner's taxable income because Piazza received a distributive share of PMG's income.

25. PMG is challenging the related sales tax assessment in a matter pending at the Illinois Independent Tax Tribunal (No. 14 TT 148).

COUNT I

The Department Improperly Increased Petitioner's Adjusted Gross Income

26. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 25, inclusive, hereinabove.

27. PMG's books and records reflect that PMG paid income tax on all net income.

28. The Department disregarded the gross receipts reported in PMG's books and records and instead fabricated a gross receipts number based on PMG's cost of goods sold and a grossly overstated mark up of 250%.

29. The estimated increase in gross receipts accordingly increased PMG's taxable income.

30. The Illinois Income Tax is measured by net income, which is base income less Illinois net loss deduction. 35 ILCS 5/201(c).

31. A corporation's base income is equal to the taxpayer's taxable income for the taxable year as modified by 35 ILCS 5/203(b)(2). 35 ILCS 5/203(b).

32. An individual's base income means an amount equal to the taxpayer's adjusted gross income for the taxable year as modified by 35 ILCS 5/203(a)(2). 35 ILCS 5/203(a).

33. The Notices are not based on PMG's sales, but are instead based on estimates that bear no relation to PMG's gross receipts from the sale of tangible property at retail.

34. In light of the availability of PMG's books and records, which clearly and accurately reflect PMG's taxable income, there was no basis for the Department to increase PMG's taxable income.

35. Because PMG's taxable income should not have been increased, there is no basis to increase the Petitioner's adjusted gross income as an owner of PMG.

36. The Department's audit does not meet the required minimum standard of reasonableness and the Department did not correct Petitioner's returns based upon the Department's best judgment and information. 35 ILCS 120/4; *Mel-Park Drugs v. Department of Revenue*, 218 Ill App 3d 203, 160 Ill Dec 707, 577 NE2d 1278 (1st Dist. 1991); *Fillichio v. Department of Revenue*, 15 Ill. 2d 327, 155 N.E.2d 3 (1959).

37. The Department may not ignore the PMG's complete and accurate records and substitute its judgment based upon general estimates.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that Petitioner properly paid income tax on all net income;

- (b) finds and declares that the Department's Notices are erroneous and have no basis in fact or law;
- (c) enters judgment in favor of Petitioner and against the Defendants and orders Defendants to withdraw the Notices;
- (d) grants such further relief as the Tribunal deems appropriate under the circumstances.

COUNT II

All penalties should be abated based on reasonable cause

38. Petitioner realleges and reincorporates the allegations in paragraphs 1 through 37, inclusive, hereinabove.

39. Petitioner paid income tax on the full amount of its distributive share from PMG.

40. Illinois law provides that penalties do not apply if a taxpayer shows that its failure to pay tax at the required time was due to reasonable cause. 35 ILCS 735/3-8.

41. The most important factor to be considered in making a determination to abate a penalty is the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion. 86 Ill. Admin. Code §700.400(b).

42. A taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code §700.400(b).


43. If the Department's assessment of tax is deemed correct based on its estimates, Petitioner should nonetheless be entitled to abatement of all penalties as it made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion.

WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that all penalties should be fully abated based on reasonable cause;
- (b) enters judgment in favor of Petitioner and against the Defendants and orders Defendants to abate penalties;
- (c) grants such further relief as the Tribunal deems appropriate under the circumstances.

Respectfully submitted,


VERAMEL LIM,
Petitioner

By: 
One of Petitioner's Attorneys

David A. Hughes (dhughes@hmblaw.com)
Christopher T. Lutz (clutz@hmblaw.com)
Samantha K. Breslow (sbreslow@hmblaw.com)
Horwood Marcus & Berk Chartered
500 W. Madison Street, Suite 3700
Chicago, IL 60661
(312) 606-3200

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in the foregoing **Petition** are true, accurate and correct.

By: 

Name: Veramel Lim

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



February 4, 2015



Letter ID: CNXXX21148487849

#BWNKMGV
#CNXX X211 4848 7849#
PHILLIP PIAZZA and VERAMEL LIM
6043 N KIRKWOOD AVE
CHICAGO IL 60646-5021

Taxpayer ID: XXX-XX-1614
Reporting period: December 2008
Total Deficiency: \$12,174.52
Balance due: \$12,174.52



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to "Illinois Department of Revenue," write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed but the total penalties and interest are 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, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, 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, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, 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 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, call us at the telephone number shown below.

Sincerely,

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 558-4960

Statement

Date: February 4, 2015
Name: PHILLIP PIAZZA
Taxpayer ID: XXX-XX-1614
Letter ID: CNXXX21148487849

Reasons for deficiency

We changed your adjusted gross income to reflect the results of an Illinois Sales Tax audit. [35 ILCS 5/203(a)]

If this liability qualified for amnesty, and you did not pay that liability during the amnesty period held October 1, 2010, through November 8, 2010, your penalty and interest amounts may be doubled. [86 Ill. Admin. Code 520/101(b)]

Penalties

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%. [35 ILCS 735-3-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$2,361.92 has been computed through February 4, 2015.

Statement

Date: February 4, 2015
Name: PHILLIP PIAZZA
Taxpayer ID: XXX-XX-1614
Letter ID: CNXXX21148487849

Computation of deficiency

Reporting Period: 31-Dec-2008

Adjusted gross income	\$548,612.00
Plus additions	
Other income additions	\$25,782.00
Minus subtractions	
Other income subtractions	-\$10,711.00
Base income	\$563,683.00
Minus exemptions	-\$4,000.00
Net income	\$559,683.00
Tax amount	\$16,790.00
Total Tax (After Recapture of Investment Credits)	\$16,790.00
Credits	
IL property tax credit	-\$401.00
Tax Due	\$8,064.00
Minus tax previously assessed	-\$9,380.00
UPIA-5 late-payment penalty (Audit)	\$2,803.60
Plus interest on tax through February 4, 2015	\$2,361.92
Total deficiency	* \$12,174.52

If you intend to pay under protest, you must pay this total deficiency amount.

Computation of balance due

Deficiency (this notice)	\$12,174.52
Plus previously assessed tax	\$9,380.00
Minus IL income tax withheld	-\$8,325.00
Minus payments	-\$1,055.00
Balance due	* \$12,174.52

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



February 4, 2015



Letter ID: CNXXXX57X7822244

#BWNKMGV
#CNXX XX57 X782 2244#
PHILLIP PIAZZA and VERAMEL LIM
6043 N KIRKWOOD AVE
CHICAGO IL 60646-5021

Taxpayer ID: XXX-XX-1614
Reporting period: December 2009
Total Deficiency: \$6,248.69
Balance due: \$6,248.69



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to "Illinois Department of Revenue," write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed but the total penalties and interest are 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, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, 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, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, 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 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, call us at the telephone number shown below.

Sincerely,

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 558-4960

Statement

Date: February 4, 2015
Name: PHILLIP PIAZZA
Taxpayer ID: XXX-XX-1614
Letter ID: CNXXXX57X7822244

Reasons for deficiency

We changed your adjusted gross income to reflect the results of an Illinois Sales Tax audit. [35 ILCS 5/203(a)]

Penalties

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%. [35 ILCS 735-3-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$586.67 has been computed through February 4, 2015.

Statement

Date: February 4, 2015
Name: PHILLIP PIAZZA
Taxpayer ID: XXX-XX-1614
Letter ID: CNXXXX57X7822244

Computation of deficiency

Reporting Period: 31-Dec-2009

Adjusted gross income	\$443,411.00
Base income	\$443,411.00
Minus exemptions	-\$6,000.00
Net income	\$437,411.00
Tax amount	\$13,122.00
Total Tax (After Recapture of Investment Credits)	\$13,122.00
Credits	
IL property tax credit	-\$441.00
Tax Due	\$6,499.00
Minus tax previously assessed	-\$8,040.00
UPIA-5 late-payment penalty (Audit)	\$1,021.02
Plus interest on tax through February 4, 2015	\$586.67
Total deficiency	* \$6,248.69

If you intend to pay under protest, you must pay this total deficiency amount.

Computation of balance due

Deficiency (this notice)	\$6,248.69
Plus previously assessed tax	\$8,040.00
Minus IL income tax withheld	-\$6,182.00
Minus payments	-\$1,858.00
Balance due	* \$6,248.69

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return



February 4, 2015



Letter ID: CNXXX8865433280

#BWNKMGV
#CNXX XX88 6543 3280#
PHILLIP PIAZZA and VERAMEL LIM
6043 N KIRKWOOD AVE
CHICAGO IL 60646-5021

Taxpayer ID: XXX-XX-1614
Reporting period: December 2010
Total Deficiency: \$5,499.89
Balance due: \$5,499.89



We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. Illinois law requires that we notify you of this deficiency and your rights.

If you agree to this deficiency, pay the total balance due as soon as possible to minimize penalty and interest assessed. Make your check payable to "Illinois Department of Revenue," write your taxpayer ID on your check, and mail a copy of this notice along with your payment.

If you do not agree, you may contest this notice by following the instructions listed below.

- If the amount of this tax deficiency, exclusive of penalty and interest is more than \$15,000, or if no tax deficiency is assessed but the total penalties and interest are 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, file a protest with us, the Illinois Department of Revenue, within 60 days of this notice. If you file a protest on time, we must reconsider the proposed deficiency, 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, this deficiency will become final. A protest of this notice does not preserve your rights under any other notice.
- In any case, you may instead, 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 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, call us at the telephone number shown below.

Sincerely,

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 558-4960

Statement

Date: February 4, 2015
Name: PHILLIP PIAZZA
Taxpayer ID: XXX-XX-1614
Letter ID: CNXXXX8865433280

Reasons for deficiency

We changed your adjusted gross income to reflect the results of an Illinois Sales Tax audit. [35 ILCS 5/203(a)]

Penalties

We are imposing an additional late-payment penalty because you did not pay the amount shown due on the Form IL-870, Waiver of Restrictions, within 30 days after the "Date of Issuance" shown on the form. Once an audit has been initiated, the additional late payment penalty is assessed at 15% of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, results in this penalty increasing to 20%. [35 ILCS 735-3-3(b-20)(2)] (for liabilities due on or after 1/1/2005)

Interest

Interest on tax in the amount of \$377.09 has been computed through February 4, 2015.

Statement

Date: February 4, 2015
Name: PHILLIP PIAZZA
Taxpayer ID: XXX-XX-1614
Letter ID: CNXXXX8865433280

Computation of deficiency

Reporting Period: 31-Dec-2010

Adjusted gross income	\$354,914.00
Plus additions	
Other income additions	\$13,075.00
Minus subtractions	
Other income subtractions	-\$27,334.00
Base income	\$340,655.00
Minus exemptions	-\$6,000.00
Net income	\$334,655.00
Tax amount	\$10,040.00
Total Tax (After Recapture of Investment Credits)	\$10,040.00
Credits	
IL property tax credit	-\$497.00
Tax Due	\$3,348.00
Minus tax previously assessed	-\$5,274.00
UPIA-5 late-payment penalty (Audit)	\$853.80
Plus interest on tax through February 4, 2015	\$377.09
Total deficiency	* \$5,499.89

If you intend to pay under protest, you must pay this total deficiency amount.

Computation of balance due

Deficiency (this notice)	\$5,499.89
Plus previously assessed tax	\$5,274.00
Minus IL income tax withheld	-\$6,195.00
Refunds	\$921.00
Balance due	* \$5,499.89



Illinois Department of Revenue
OFFICE OF ADMINISTRATIVE HEARINGS
Willard Ice Building
101 West Jefferson Street -- Level 5SW
Springfield, IL 62702
(217)782-6995

April 21, 2015

Christopher T. Lutz
Horwood Marcus & Berk
500 West Madison Street, Suite 3700
Chicago, IL 60661

Re: **PROTEST DISMISSAL DUE TO LACK OF JURISDICTION**
Phillip Piazza and Veramel Lim
(3) Notices of Deficiency, dated February 4, 2015
Letter ID: CNXXX21148487849 (2008)
Letter ID: CNXXXX57X7822244 (2009)
Letter ID: CNXXXX8865433280 (2010)

Mr. Lutz:


The Office of Administrative Hearings of the Illinois Department of Revenue recently received your protest and request for an administrative hearing for Phillip Piazza and Veramel Lim regarding the above Notices. The mailing date of the protests and requests for hearing indicate that the protests were sent within the 60-day protest period for requesting an administrative hearing stated on the above Notices. However, the assessments in the aggregate for the audit period exceeds the statutory amount (\$15,000, exclusive of penalties and interest) or (\$15,000 for notices that involve only penalties and interest) for which the Department has jurisdiction for protests filed on or after January 1, 2014. For protests that exceed the statutory amount and are filed on or after January 1, 2014, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.* **Because the Department does not have jurisdiction over this protest, the Department is respectfully dismissing your protest and request for administrative hearing.**

Because of these recent changes in Illinois law, the Department and the Tax Tribunal recognize that there may be instances, such as this, when a protest and request for an administrative hearing may be filed in the wrong jurisdiction. The Tax Tribunal's website (www.illinois.gov/taxtribunal) contains rules that include guidance on filing in the wrong jurisdiction and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that**

a timely protest that is dismissed by the Department for lack of jurisdiction may be filed with the Tax Tribunal within 60 days of the notice of such dismissal. See Subsection (a)(3) of Section 5000.310 of the Tax Tribunal's rules. Please note that the Tax Tribunal has different requirements than the Department for filing protests, including the payment of filing fees and the filing of a petition in the form required by the Tax Tribunal.

I recommend that you review the information provided on the Tax Tribunal's website and contact them if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Charlton", written in a cursive style.

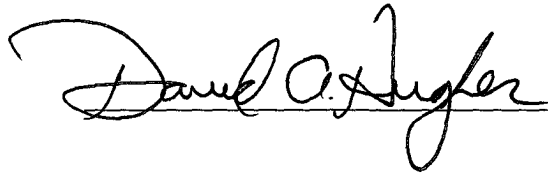
Terry D. Charlton
Chief Administrative Law Judge
Illinois Department of Revenue

TDC

CERTIFICATE OF SERVICE

Undersigned counsel of record hereby certifies that he caused a copy of the foregoing **Petition** to be served upon other counsel of record herein by causing the same to be delivered by messenger before the hour of 5:00 p.m. on the 17th day of June, 2015.

Illinois Department of Revenue
Office of Legal Services
100 W. Randolph St., 7-900
Chicago, IL 60601

A handwritten signature in black ink, reading "Daniel A. Hughes". The signature is written in a cursive style with a horizontal line underneath the name.