

ILLINOIS INDEPENDENT TAX TRIBUNAL

LITOWITZ FAMILY, L.L.C.,)
FEIN: 41-2032780)
)
Petitioners,)
)
v.)
)
ILLINOIS DEPARTMENT OF)
REVENUE,)
)
Respondent.)

RECEIVED
FEB 13 2018
BY: _____
18TT19

PETITION

Petitioner, Litowitz Family, L.L.C. (“Litowitz LLC”), by and through its attorneys, hereby petitions the Illinois Independent Tax Tribunal (the “Tribunal”) to review and modify the Notices of Deficiency issued by the Illinois Department of Revenue (the “Department”) for the reasons set forth below.

NATURE OF ACTION

1. This Petition requests that the Tribunal review and modify the Department’s proposed assessment for Personal Property Tax Replacement Income Tax (“Replacement Tax”) imposed by Section 201(c) and (d) of the Illinois Income Tax Act (the “IITA”) for its taxable years ending on December 31, 2013, December 31, 2014, and December 31, 2015 (the “Audit Period”) and the imposition of associated late payment penalties and interest. On December 11, 2017, the Department issued a Notice of Deficiency (“NOD”) to Petitioner for each of the taxable years (attached hereto as Exhibit A).

2. Litowitz LLC seeks relief with respect to the Department’s erroneous disallowance, in each year of the Audit Period, of a portion of Litowitz LLC’s deduction authorized by Section 203(d)(2)(H) of the IITA for personal service income or reasonable

compensation and the erroneous imposition of associated interest and penalties. Litowitz LLC properly claimed a deduction for personal service income or reasonable compensation in computing its Replacement Tax liability.

PARTIES

3. Litowitz LLC is a Delaware limited liability company and the Illinois taxpayer that received the NODs.

4. The Illinois Department of Revenue is the Illinois agency charged with the administration and enforcement of the Replacement Tax.

JURISDICTION

5. The Tribunal has jurisdiction over Litowitz LLC and this Petition pursuant to 35 ILCS 1010/1-45 and 35 ILCS 5/908.

BACKGROUND

A. The Department's Audit of Litowitz LLC

6. On March 1, 2017, the Department initiated an audit of Litowitz LLC for the tax years 2013, 2014, and 2015. The Department completed that audit and, on December 11, 2017, issued three NODs to Petitioner, one for each tax year of the Audit Period.

7. In the "Explanation of adjustments" in each of the NODs (Ex. A), the Department stated: "We adjusted or disallowed the subtraction modifications for the amount of income of the partnership which constitutes personal service income as defined in Section 1348(b)(1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership. [35 ILCS 5/203(d)(2)(H)]." The NODs calculate the tax impact for each year during the Audit Period, increasing Litowitz LLC's asserted Replacement Tax liability by [REDACTED] for 2013,

[REDACTED] for 2014, and [REDACTED] for 2015. The NODs assert a late payment penalty of [REDACTED] for 2013, [REDACTED] for 2014, and [REDACTED] for 2015. Finally, the NODs assert interest on tax, computed through December 11, 2017 of [REDACTED] for 2013, [REDACTED] for 2014, and [REDACTED] for 2015.

8. The NODs provide no additional explanation regarding the basis for the Department's determination, although Litowitz LLC understands, based on discussions with the Department and review of the NODs, that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

B. Alec and Jennifer Litowitz; Litowitz LLC

9. Alec and Jennifer Litowitz have been married [REDACTED]
[REDACTED] During all years of the Audit Period, Mr. and Mrs. Litowitz filed joint federal and Illinois income tax returns.

10. During the years of the Audit Period, Mrs. Litowitz owned [REDACTED]
[REDACTED] Mr. and Mrs. Litowitz created this arrangement because, as a marital unit, they represent one economic entity. The remaining [REDACTED] member of Litowitz LLC is [REDACTED]
[REDACTED] Trust.

C. Business and Structure of Litowitz LLC and Magnetar

11. Litowitz LLC is owned [REDACTED]
and the [REDACTED]

12. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13. Magnetar Financial serves as the investment manager or general partner or manager for, and provides investment advisory services to, several private investment funds and separately managed accounts (each, a “Fund”). Magnetar Financial has been an SEC-registered investment adviser since August 30, 2005.

14. [REDACTED]

[REDACTED]

[REDACTED]

15. Mr. Litowitz is a co-founder, principal, and the Chief Executive Officer of Magnetar Financial. He also serves as co-Chairman of Magnetar Financial’s Management Committee and is co-head of Magnetar Financial’s Investment Committee.

16. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Magnetar also receives, from certain

Funds, incentive compensation in the form of an allocation or fee equal to a percentage of any

“new” net profit attributable to an investor’s investment interest in the Fund. New net profit is, generally speaking, profit over a “high-water mark,” which is the greater of the value of an investment on the last date that incentive compensation was previously allocated or paid, or the date of the investment. The incentive compensation is typically allocated or paid to Magnetar as of the end of the fiscal year and, for investors in certain Funds, may be subject to a “hurdle rate.” A hurdle rate is a rate of return that must be earned before incentive compensation will be earned. This compensation is typically based on unrealized as well as realized appreciation of assets. Magnetar also receives, from certain Funds, a carried interest equal to a percentage of the Fund’s distributions. Magnetar may receive distributions in respect of the carried interest after investors have received a return of their capital contributions to the Fund, and for some Funds the carried interest is also subject to a “preferred return” payable to investors tied to an interest rate, such as the London Interbank Offered Rate. A preferred return is similar to a hurdle rate applicable to an incentive fee or allocation. For Funds with a preferred return, Magnetar will not be entitled to receive a distribution in respect of the carried interest until investors have received both a return of capital and the preferred rate of return on their invested capital. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17. [REDACTED]

[REDACTED]

18. [REDACTED]

[REDACTED]

[REDACTED]

COUNT I

Petitioner Is Entitled to a Deduction for Personal Services Income

19. Litowitz LLC incorporates in this Count I the allegations of paragraphs 1–18 of this Petition.

20. Replacement Tax is imposed by Section 201(c) and (d) of the IITA on base income, as modified by Section 203 and allocated to Illinois by Article 3 of the IITA. Section 203(d) of the IITA defines a partnership’s “base income” as “an amount equal to the taxpayer’s taxable income for the taxable year.” 35 ILCS 5/203(d)(1). A partnership’s base income is subject to modifications, including Section 203(d)(2)(H) of the IITA, which allows for a deduction of

Any income of the partnership which constitutes personal service income as defined in Section 1348(b)(1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater

21. Section 1348(b)(1) of the Internal Revenue Code, as in effect December 31, 1981, defines “personal service income” as “any income which is earned income within the meaning of . . . section 911(b).” Section 911(b), as in effect December 31, 1981, defines “earned income” as “wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered.” Section 911(b) further states,

In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

22. For Magnetar, however, capital is not a material income-producing factor, because Magnetar conducts a service business. [REDACTED]

[REDACTED]

23. The deduction under Section 203(d)(2)(H) of the IITA for personal service income applies to any such income “of the partnership.” Thus, the relevant test is whether such income, determined at the level of the partnership that receives the income, constitutes “personal service income.” Section 911(b), as in effect December 31, 1981, does not require that the taxpayer actually render the personal service in order for the income in question to be “personal service income.”

24. Substantially all of Litowitz LLC’s income is [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] is “personal service income” under Section 203(d)(2)(H) of the IITA.

25. As such, the Department’s adjustment to Litowitz LLC’s Illinois taxes by [REDACTED] for 2013, [REDACTED] for 2014, and [REDACTED] for 2015, and the associated

imposition of interest and penalties of [REDACTED] and [REDACTED], respectively, for 2013, [REDACTED] and [REDACTED], respectively, for 2014, and [REDACTED] and [REDACTED], respectively, for 2015, was erroneous and contrary to the law.

WHEREFORE, Litowitz LLC prays this Tribunal to:

- (a) find and declare that the income of Litowitz LLC qualifies for the deduction allowable under 35 ILCS 5/203(d)(2)(H) because it constitutes personal service income of Litowitz LLC;
- (b) find and declare that Litowitz LLC is entitled to a reduction of the Department's calculated increase of Litowitz LLC's Illinois taxes by [REDACTED] for 2013, [REDACTED] for 2014, and [REDACTED] for 2015;
- (c) find and declare that Litowitz LLC is not liable for interest and penalties with respect to the foregoing tax amounts; and
- (d) grant such other relief as the Tribunal deems reasonable and proper.

COUNT II

Petitioner Is Entitled to a Deduction for Reasonable Compensation for Services Rendered by Mr. Litowitz

26. Litowitz LLC incorporates in this Count II the allegations of paragraphs 1–25 of this Petition.

27. As discussed in Count I, *supra*, a partnership's base income is subject to modifications, including under Section 203(d)(2)(H) of the IITA, which allows for a deduction for "a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership."

28. The Department adjusted Litowitz LLC's deduction for a reasonable allowance for compensation paid. This adjustment was erroneous and contrary to the law because Litowitz LLC properly claimed a deduction for a reasonable allowance for compensation based on the value of the services rendered by Mr. Litowitz.

29. The reasonable compensation deduction under Section 203(d)(2)(H) of the IITA does not limit the deduction solely to the income received by the partner who performed services. Rather, the deduction is for “a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership.”

30. [REDACTED]

31. As such, the Department’s adjustment to Litowitz LLC’s Illinois taxes by [REDACTED] for 2013, [REDACTED] for 2014, and [REDACTED] for 2015, and the associated imposition of interest and penalties of [REDACTED] and [REDACTED], respectively, for 2013, [REDACTED] and [REDACTED] respectively, for 2014, and [REDACTED] and [REDACTED], respectively, for 2015, are in error.

WHEREFORE, Litowitz LLC prays this Tribunal to:

(a) find and declare that Litowitz LLC qualified for a deduction allowable under 35 ILCS 5/203(d)(2)(H) for compensation paid or accrued for services rendered by Mr. Litowitz;

(b) find and declare that Litowitz LLC is entitled to a reduction of the Department’s calculated increase of Litowitz LLC’s Illinois taxes by [REDACTED] for 2013, [REDACTED] for 2014, and [REDACTED] for 2015;

(c) find and declare that Litowitz LLC is not liable for interest and penalties with respect to the foregoing tax amounts; and

(d) grant such other relief as the Tribunal deems reasonable and proper.

COUNT III

Petitioner’s Entitlement to a Deduction for Personal Service Income or Reasonable Compensation Is Not Subject to an Imputed Return on Capital

32. Litowitz LLC incorporates in this Count III the allegations of paragraphs 1–31 of this Petition.

33. [REDACTED]

34. Neither the IITA nor any promulgated regulation thereunder requires a partnership to reduce its allowance for reasonable compensation to the extent of a deemed return on capital.

35. The Department has issued a notice of proposed amendment to the regulations under Section 203(d)(2)(H) of the IITA (the “Proposed Regulations”) which, if finalized and upheld as valid, would create a rebuttable presumption that compensation is reasonable and therefore deductible if it satisfies a so-called “independent investor test.” *See* 41 Ill. Reg. 15198, 15214 (proposed Dec. 26, 2017). Under this independent investor test, a partnership would be entitled to a rebuttable presumption that compensation is reasonable where the income of the partnership is allocated to partners in an amount necessary to produce a satisfactory return on partnership capital. *See id.*

36. The Proposed Regulations have not been adopted and therefore under the Illinois Administrative Procedure Act are not binding on Litowitz LLC.

37. Even if the Proposed Regulations were formally adopted, the independent investor requirement has no basis in Illinois law and therefore would unduly narrow the scope of

Section 203(d)(2)(H) of the IITA, which is impermissible under Illinois law. *See Van's Material Co. v. Dep't of Revenue*, 131 Ill. 2d 196, 203, 209 (1989).

WHEREFORE, Litowitz LLC prays this Tribunal to:

(a) find and declare that Litowitz LLC's entitlement to a deduction for personal service income or reasonable compensation is not subject to an imputed return on capital;

(b) find and declare that Litowitz LLC is entitled to a reduction of the Department's calculated increase of Litowitz LLC's Illinois taxes by [REDACTED] for 2013, [REDACTED] for 2014, and [REDACTED] for 2015;

(c) find and declare that Litowitz LLC is not liable for interest and penalties with respect to the foregoing tax amounts; and

(d) grant such other relief as the Tribunal deems reasonable and proper.

COUNT IV

Petitioner's Entitlement to a Deduction for Personal Service Income or Reasonable Compensation Is Not Affected by Mrs. Litowitz's Receiving an Allocation of a Portion of Petitioner's Income

38. Litowitz LLC incorporates in this Count IV the allegations of paragraphs 1–37 of this Petition.

39. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

40. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

41. [REDACTED]

[REDACTED]

[REDACTED]

42. Since 1948, federal tax law has treated married couples as a single economic entity, vesting each spouse with a taxable interest in one half of the couple's joint income, including income derived from personal services. The purpose of this approach is to equalize the tax burden of married couples in common law and community property states. See S. Rep. No. 1013, at 1, 22-25 (1948); e.g., *Commissioner v. Stockly*, 221 F.2d 745, 747 (1955).

43. Treating spouses as a single economic entity for these purposes is also consistent with analogous provisions of federal income tax law that deal specifically with the characterization of income in the hands of the spouses as well as certain other analogous rules relating to the tax treatment of transactions between spouses and other related persons. See, e.g., *Fink v. United States*, 454 F.2d 1387, 1387-92 (Ct. Cl. 1972) (holding that a wife's share of her husband's income was also compensation for the husband's personal services, even though the wife performed no services); *Graham v. Commissioner*, 95 F.2d 174 (9th Cir. 1938); see also 26 U.S.C. § 469(h)(5), and Treas. Reg. § 1.469-5T(f)(3) (married persons are treated as participating in their spouses' activities for purposes of the passive activity loss limitation rules); 26 U.S.C. § 267(c) & (e)(3), 26 U.S.C. § 707(b)(3), and Treas. Reg. § 1.267(c)-1 (collectively providing that spouses are generally treated as constructively owning capital or profits interests in partnerships and stock in corporations that are owned by the other spouse).

44. Under Illinois law, if a husband and wife file a joint federal income tax return, they are generally required (absent an election to the contrary) to file a joint Illinois income tax return. *See* IITA § 502(c). Married couples who file a joint Illinois income tax return are jointly and severally liable for each other's Illinois income tax liability. *See* IITA § 502(c)(1)(B)(ii).

45. [REDACTED]

[REDACTED]

[REDACTED] has no bearing on whether Litowitz LLC qualifies for a personal services income or reasonable compensation deduction under Section 203(d)(2)(H) of the IITA for the income allocable to Mrs. Litowitz. As such, the Department's adjustment to Litowitz LLC's Illinois taxes by [REDACTED] for 2013, [REDACTED] for 2014, and [REDACTED] for 2015, and the associated imposition of interest and penalties of [REDACTED] and [REDACTED], respectively, for 2013, [REDACTED] respectively, for 2014, and [REDACTED] respectively, for 2015, are in error.

WHEREFORE, Litowitz LLC prays this Tribunal to:

- (a) find and declare that the income of Litowitz LLC qualifies for the deduction allowable under 35 ILCS 5/203(d)(2)(H) notwithstanding that a portion of such income is allocable to Mrs. Litowitz;
- (b) find and declare that Litowitz LLC is entitled to a reduction of the Department's calculated increase of Litowitz LLC's Illinois taxes by [REDACTED];
- (c) find and declare that Litowitz LLC is not liable for interest and penalties with respect to the foregoing tax amounts; and
- (d) grant such other relief as the Tribunal deems reasonable and proper.

COUNT V

The Department's Disallowance of a Deduction for Personal Service Income or Reasonable Compensation for the Share of Income Allocable to Mrs. Litowitz Violates the Uniformity Clause of the United States Constitution

46. Litowitz LLC incorporates in this Count V the allegations of paragraphs 1–45 of this Petition.

47. Taxing statutes in Illinois are subject to the Illinois Constitution's Uniformity Clause, which provides that for "any law classifying the subjects or objects of non-property taxes or fees, the class shall be reasonable and the subjects and objects within each class shall be taxed uniformly." Ill. Const. 1970, Article IX, Section 2.

48. To determine whether a tax classification meets the requirements of uniformity, courts ask, first, whether there exists "a real and substantial difference between the people taxed and those not taxed," and second, whether the classification "bear[s] some reasonable relationship to the object of the legislation or to public policy." *Searle Pharm., Inc. v. Dep't of Revenue*, 117 Ill. 2d 454, 468 (1987); *see also Nw. Univ. v. City of Evanston*, 221 Ill. App. 3d 893, 896 (1991).

49. In *Searle*, the Illinois Supreme Court analyzed whether a "disparity in tax treatment [] between a parent-subsidary affiliated group electing to file a consolidated Federal corporate income tax return and affiliated corporate group electing to file separate Federal income tax returns" violated the Uniformity Clause of the Illinois Constitution. *Searle Pharm., Inc.*, 117 Ill. 2d at 462. The Court concluded "there is no real and substantial difference between a corporation which is a member of an affiliated corporate group that elects to file a Federal consolidated income tax return and a corporation which is a member of an affiliated corporate group that does not elect to file a consolidated corporate Federal income tax return." *Id.* at 469.

It further held that “the classification bears no reasonable relationship to the object of the legislation or to public policy.” *Id.*

50. To the extent that the Department’s adjustment is based on a determination that income allocable to Mrs. Litowitz is not eligible for a deduction for either personal services income or reasonable compensation, [REDACTED] such adjustment would violate the Uniformity Clause of the Illinois Constitution. The determination would discriminate between married couples who live in community property states and those who do not, despite the express intent of federal and Illinois income tax laws, in providing for joint returns, to treat all married taxpayers in an equivalent manner, and “a desire by the courts to achieve uniformity among spouses from community property [states]” and those from common law states who elect to file jointly. *Fink*, 454 F.2d at 1393; *see also Graham*, 95 F.2d at 176 (“[I]f an ordinary business partnership, acting through one of its members, had rendered the services here involved, such services would be deemed to have been actually rendered by the partnership, and each partner’s share of the compensation received therefor would be regarded as ‘earned income,’ within the meaning of section 31. A uniform application of this section requires that the same treatment be accorded to a member of that species of partnership known as a marital community.”).

51. Thus, as applied here, the Department’s application of Section 203(d)(2)(H) of the IITA [REDACTED] is invalid under the Uniformity Clause of the Illinois Constitution. [REDACTED]

[REDACTED] The distinction the Department has created “bear[s] no] reasonable relationship to the object of the legislation or to public policy.” *Searle*, 117 Ill. 2d at 468.

WHEREFORE, Litowitz LLC prays this Tribunal to:

(a) find and declare that the Department’s application of 35 ILCS 5/203(d)(2)(H) to disallow a deduction for personal services income or reasonable compensation for the income allocable to Mrs. Litowitz is invalid under the Uniformity Clause of the Illinois Constitution;

(b) find and declare that the income of Litowitz LLC qualifies for the deduction allowable under 35 ILCS 5/203(d)(2)(H) notwithstanding that a portion of such income is allocable to Mrs. Litowitz;

(c) find and declare that Litowitz LLC is entitled to a reduction of the Department’s calculated increase of Litowitz LLC’s Illinois taxes [REDACTED]

(d) find and declare that Litowitz LLC is not liable for interest and penalties with respect to the foregoing tax amounts; and

(e) grant such other relief as the Tribunal deems reasonable and proper.

COUNT VI

The Department’s Disallowance of a Deduction for Personal Services Income or Reasonable Compensation for the Share of Income Allocable to Mrs. Litowitz is Contrary to Public Policy

52. Litowitz LLC incorporates in this Count VI the allegations of paragraphs 1–51 of this Petition.

53. As discussed in the Background section and Count IV, *supra*, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

54. Any interpretation of the IITA that would disadvantage married couples that choose to create legal and economic arrangements that result in a fair sharing of the income and property attributable to services of one spouse but not the other would violate public policy. Such an application of the IITA would encourage the creation of legal and economic arrangements that economically disempower the spouses of service providers.

55. Thus, as applied here, any attempt by the Department to apply Section 203(d)(2)(H) of the IITA to disallow a deduction for personal services income or reasonable compensation for the income allocable to Mrs. Litowitz should be rejected as contrary to public policy and thus invalid.

WHEREFORE, Litowitz LLC prays this Tribunal to:

(a) find and declare that the income of Litowitz LLC qualifies for the deduction allowable under 35 ILCS 5/203(d)(2)(H) notwithstanding that a portion of such income is allocable to Mrs. Litowitz;

(b) find and declare that Litowitz LLC is entitled to a reduction of the Department's calculated increase of Litowitz LLC's Illinois [REDACTED]

(c) find and declare that Litowitz LLC is not liable for interest and penalties with respect to the foregoing tax amounts; and

(d) grant such other relief as the Tribunal deems reasonable and proper.

COUNT VII

In the Alternative, the Penalties Assessed Against Petitioner Should Be Abated

56. Litowitz LLC incorporates in this Count VII the allegations of paragraphs 1–55 of this Petition.

57. Section 3-8 of the Uniform Penalty and Interest Act (35 ILCS 735/3-8), entitled “No penalties if reasonable cause exists,” provides in relevant part that: “The penalties imposed under the provisions of Sections 3-3, 3-4, 3-5, and 3-7.5 of this Act shall not apply if the

taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with the rules and regulations promulgated by the Department.”

58. For the reasons articulated in Counts I–VI, the Department should allow the subtraction modifications for the amount of income of the partnership which constitutes personal service income as defined in Section 1348(b)(1) of the Internal Revenue Code, as in effect December 31, 1981, or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership. If, however, this Tribunal determines that such deductions are not appropriate, Litowitz LLC pleads in the alternative that—for all of the reasons set forth in Counts I–VI, *supra*—it had more than a reasonable basis for applying the subtraction modification for the amount of income of the partnership that constitutes personal service income or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] For all of the foregoing reasons, Litowitz LLC is entitled to abatement of the late-payment penalties assessed by the Department with respect to that portion of its underlying Replacement Tax liability.

WHEREFORE, Litowitz LLC prays this Tribunal to:

(a) find and declare that Litowitz LLC is entitled to abatement of all penalties assessed in the Notices of Deficiency; and

(b) grant such other relief as the Tribunal deems reasonable and proper.

LITOWITZ FAMILY LLC

FEIN: 41-2032780

1603 Orrington Ave, Suite 1300

Evanston, IL 60201-5018

Thomas Dykstra,

Manager of LFO Management LLC,

Managing Member of Litowitz Family LLC

Telephone: 847-905-4592

tdykstra@litowitz.net

By: 

One of Their Attorneys

Scott J. Heyman

Charles K. Schafer

SIDLEY AUSTIN LLP

One South Dearborn

Chicago, IL 60603

Telephone: 312-853-7000

Facsimile: 312-853-7036

sheyman@sidley.com

cschafer@sidley.com

EXHIBIT LIST

<u>Ex. #</u>	<u>Description</u>
A	Notices of Deficiency for Fiscal Years 2013, 2014, and 2015

EXHIBIT A

Notice of Deficiency
for Form IL-1065, Partnership Replacement Tax Return



#BWNKMGV
#CNXX XX19 1578 48X5#
LITOWITZ FAMILY LLC
ATTN: ALEC N LITOWITZ
1603 ORRINGTON AVE STE 1300
EVANSTON IL 60201-5018

December 11, 2017



Letter ID: CNXXXX19157848X5

Taxpayer ID: 41-2032780
Audit ID: A1655308288
Reporting period: December 2013
Total Deficiency: [REDACTED]
Balance due: [REDACTED]

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 the "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 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**, file a protest with us, the Illinois Department of Revenue, within **60 days** of the date 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 and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the 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 liability 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 assessment total 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) 785-6711

Bankruptcy Information

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy case number and the bankruptcy court. The bankruptcy automatic stay does not change the fact you are required to file tax returns. For those under the bankruptcy protection, this notice is not an attempt to collect tax debt. Illinois law requires issuance of this notice to advise you of an amount due or a missing return that must be filed.

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 Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

Notice of Deficiency
for Form IL-1065, Partnership Replacement Tax Return



#BWNKMGV
#CNXX XXX8 4X19 1526#
LITOWITZ FAMILY LLC
ATTN: ALEC N LITOWITZ
1603 ORRINGTON AVE STE 1300
EVANSTON IL 60201-5018

December 11, 2017



Letter ID: CNXXXXX84X191526

Taxpayer ID: 41-2032780
Audit ID: A1655308288
Reporting period: December 2014
Total Deficiency: [REDACTED]
Balance due: [REDACTED]

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 the "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 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**, file a protest with us, the Illinois Department of Revenue, within **60 days** of the date 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 and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the 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 liability 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 assessment total 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) 785-6711

Bankruptcy Information

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy case number and the bankruptcy court. The bankruptcy automatic stay does not change the fact you are required to file tax returns. For those under the bankruptcy protection, this notice is not an attempt to collect tax debt. Illinois law requires issuance of this notice to advise you of an amount due or a missing return that must be filed.

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 Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

Notice of Deficiency

for Form IL-1065, Partnership Replacement Tax Return



#BWNKMGV
#CNXX XX34 6347 4729#
LITOWITZ FAMILY LLC
ATTN: ALEC N LITOWITZ
1603 ORRINGTON AVE STE 1300
EVANSTON IL 60201-5018

December 11, 2017



Letter ID: CNXXXX3463474729

Taxpayer ID: 41-2032780
Audit ID: A1655308288
Reporting period: December 2015
Total Deficiency: [REDACTED]
Balance due: [REDACTED]

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 the "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 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**, file a protest with us, the Illinois Department of Revenue, within **60 days** of the date 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 and administrative hearing. An administrative hearing is a formal legal proceeding conducted pursuant to the 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 liability 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 assessment total 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) 785-6711

Bankruptcy Information

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy case number and the bankruptcy court. The bankruptcy automatic stay does not change the fact you are required to file tax returns. For those under the bankruptcy protection, this notice is not an attempt to collect tax debt. Illinois law requires issuance of this notice to advise you of an amount due or a missing return that must be filed.

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 Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

