

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

JOSEPH C. & NORAH F. SHEEHAN)	
)	
)	14-TT-106
)	Judge Brian F. Barov
STATE OF ILLINOIS)	
DEPARTMENT OF REVENUE)	

ANSWER

NOW COMES THE Department of Revenue of the State of Illinois (“Department”) through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its answer to Taxpayer’s Petition respectfully pleads as follows:

JURISDICTION AND VENUE

- 1: The “Notice” was issued by the Department on April 28, 2014 denying a refund in the total amount of tax, penalty and interest in excess of \$15,000 for the tax year ending December 2011. A copy of the “Notice” is attached to this Petition.

ANSWER: The information contained in Paragraph 1 is required by Illinois Independent Tax Tribunal Regulations (“Rule”) 310(a)(a)(A) (86 Ill. Admin. Code § 5000.310) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department admits the factual allegation contained in paragraph 1.

2. Petitioners are individuals residing at 28 W 531 Roosevelt Road, Winfield, IL 60190. Their telephone number is 630-293-8797.

ANSWER: The information contained in Paragraph 2 is required by Illinois Independent Tax Tribunal Regulations (“Rule”) 310(a)(a)(A) (86 Ill. Admin. Code § 5000.310) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department admits the factual allegation contained in paragraph 2.

COUNT ONE

3. Petitioners timely filed a 2011 Form IL-1040 return for the tax year ending December 31, 2011 (“the Original Return”).

ANSWER: Department admits the factual allegations contained in Paragraph 3.

4. Petitioners employ the cash basis of accounting which recognizes income when received and expenses when paid.

ANSWER: Department admits the factual allegations contained in Paragraph 4.

5. Petitioners mistakenly included dividend income in the original Return.

ANSWER: Department has no way of knowing what motivated Taxpayer when preparing their original return, and therefore cannot admit nor deny the allegations in Paragraph 5, and demands strict proof thereof.

6. Petitioners filed a 2011 Form IL-1040X for tax year ending December 31, 2011 on or about January 16, 2014 (“Amended Return”).

ANSWER: Department admits the factual allegations contained in Paragraph 6.

7. Petitioners amended their 2011 return to eliminate the dividend income that was mistakenly reported for calendar year 2011. The dividend income was not received by taxpayer and thus should not be reportable in calendar year 2011.

ANSWER: Department admits the factual allegations contained in Paragraph 7.

7. [Taxpayer’s Petition contained two paragraphs numbered 7.] Petitioners also filed an amended federal income tax return for the 2011 calendar year to eliminate the dividend income that was mistakenly reported on their original return.

ANSWER: Department admits the factual allegations contained in the second Paragraph 7.

8. The Internal Revenue Service agreed with the changes in the federal amended return and issued a refund to the Petitioners.

ANSWER: Department admits the factual allegations contained in Paragraph 8.

9. Since the starting point for determining Illinois taxable income is federal adjusted gross income, the Illinois Department of Revenue should also accept the changes reported by Petitioners on the Amended Return. *See* 35 ILCS 5/203.

ANSWER: Paragraph 9 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Department denies any factual allegations contained in Paragraph 9 and demands strict proof thereof.

DEPARTMENT'S AFFIRMATIVE DEFENCE

1. Although initially denied, the Department did allow a reduction in adjusted gross income on Line 1 of the amended return to \$214,739 as requested by the Taxpayer.
2. However, the return contained other errors that precluded the Department from processing the refund as claimed.
3. Department's records state that Taxpayer made estimated payments or else had credits from prior years carried over to the 2011 tax year in the amount of \$1,120.66, not \$4,484 as reported on Line 27 of the amended return.
4. Department's records state that the amount of tax paid by Taxpayer with the original return was \$42,471, not \$50,000 as reported on Line 30 of the amended return.
5. Accordingly, the Taxpayer is only entitled to receive a refund in the amount of \$41,330.53. See Exhibit A.

WHEREFORE, the Department respectfully requests this Tribunal

- a. Deny Petitioner's prayer for relief;
- b. Find that the Notice of Claim Denial correctly reflects Petitioner's 2011 Illinois income tax assessment, including penalties and interest, subject to certain adjustments;
- c. Order judgment in favor of the Department and against the Taxpayer/Petitioner; and
- d. Grant any further relief this Tribunal deems just and appropriate.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: 
Ralph Bassett
Special Assistant Attorney General
ARDC No. 6180788

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Response to Protest Request
for Form IL-1040-X, Amended Individual Income Tax Return



July 1, 2014



Letter ID: L1614397664

Account ID: P19454941
Reporting Period: December 2011

JOSEPH C. and NORAH E. SHEEHAN
28 W 531 ROOSEVELT ROAD
WINFIELD IL 60190

Dear Taxpayer:

We received your protest and supporting documentation for the reporting period above.

Based on a review of your documentation, we approved a portion of your previously denied refund claim. The approved refund amount represents

- your original refund claim minus an incorrect amount of previously received overpayments; or
- your original refund claim minus an incorrect amount of previously made payments; or
- a substantial amount of your original refund claim.

Please read the following choices and select the action you wish to take:

- Check here if you agree with the approved refund amount and would like to withdraw your protest against our Notice of Claim Denial.
- Check here if you disagree with the approved refund amount and would like your protest against our Notice of Claim Denial to remain active.

Please return a copy of this letter to us within 20 days. If you do not respond, we will refer your account to Legal Services for resolution.

If you have any questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are below.

Kathleen Clark

INDIVIDUAL PROCESSING DIVISION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19023
SPRINGFIELD IL 62794-9023

(217) 785-6501
(217) 557-5353 fax

Exhibit A

Response to Protest Request

JOSEPH C. and NORAH E. SHEEHAN

Summary



Letter ID: L1614397664
Account ID: P19454941
Reporting Period: December 2011

Form IL-1040-X Financial Details

<i>Line Description</i>	<i>Amount</i>
Income	
1 Federal adjusted gross income (AGI)	214,739.00
2 Federally tax-exempt interest income	0.00
3 Other additions to your income	0.00
4 Total income	214,739.00
Subtractions	
5 Social Security and retirement income	105,775.00
6 Illinois refund included in US1040	4,484.00
7 Other subtractions to your income	0.00
8 Total subtractions	110,259.00
9 Illinois base income	104,480.00
Exemptions	
10 Exemption allowance	6,000.00
Net Income	
11 Net income (resident)	98,480.00
Total tax	
13 Tax	4,924.00
14 Recapture of investment tax credits	0.00
16 Total tax	4,924.00
Nonrefundable Credits	
17 Tax paid to another state	0.00
18 Schedule ICR credits	3,040.00
19 Schedule 1299-C credit	0.00
20 Total nonrefundable credits	3,040.00
21 Tax after nonrefundable credits	1,884.00
22 Household employment tax	0.00
23 Total tax	1,884.00
Previous Overpayments	
24 Previous overpayments, refunds, or credit carryforward, and original contributions	0.00
25 Tax after previous overpayments	1,884.00
Payments and Refundable Credit	
26 Illinois Income Tax withheld	5,153.00
27 Estimated payments (IL-1040-ES, IL-505-I, and prior year credit)	120.66
28 Pass-through entity payments	0.00
29 Earned Income Credit	0.00
30 Amount previously paid	42,471.00
31 Total payments and refundable credit	48,744.66
Refund or Balance Due	
32 Overpayment	46,860.66
Penalty	5,530.13
Interest	0.00
34 Total penalty and interest	5,530.13
35 Refund	41,330.53
Payment with IL-1040-X	0.00
Total overpayment	41,330.53

ILLINOIS INDEPENDENT
TAX TRIBUNAL

RECEIVED
JUL 25 2014

JOSEPH C. & NORAH F. SHEEHAN)

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STATE OF ILLINOIS)

DEPARTMENT OF REVENUE)

BY: _____

14-TT-106

Judge Brian F. Barov

CERTIFICATE OF SERVICE

Ralph Bassett certifies that he is a Special Assistant Attorney General of the State of Illinois duly appointed by Lisa Madigan, Attorney General of the State of Illinois; that he is authorized to make this certificate; that on July 25, 2014, before the hour of 5:00 p.m. he serviced a true and exact copy of the foregoing instrument entitled ANSWER on the above Taxpayer/Petitioner by sending same as an attachment to an electronic mail message addressed to the following individual at her designated email address:

Catherine A. Battin: cbattin@mwe.com



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Special Assistant Attorney General
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