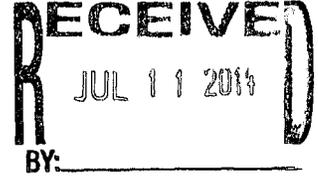


IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

RONALD BENDERSON & SUSAN JUSTINGER, )  
)  
Petitioners, )  
)  
v. )  
)  
THE ILLINOIS DEPARTMENT OF REVENUE, )  
)  
Defendant. )

No.



14TT127

**PETITION**

Petitioners, RONALD BENDERSON and SUSAN JUSTINGER (“Petitioner”), by and through their attorneys, Horwood Marcus & Berk Chartered, complain of the Defendant, the Illinois Department of Revenue (“Department”), and allege as follows:

**PARTIES**

1. Petitioners are a married couple who are residents of the State of New York. Petitioners’ tax return filing address is 570 Delaware Avenue, Buffalo, New York 14202.

2. Petitioners are represented by Fred O. Marcus, David Hughes and Jennifer Zimmerman of Horwood Marcus & Berk Chartered, located at 500 West Madison St., Suite 3700, Chicago, Illinois 60661, who can be reached at 312-606-3210 or [fmarcus@hmblaw.com](mailto:fmarcus@hmblaw.com), at 312-606-3212 or [dhughes@hmblaw.com](mailto:dhughes@hmblaw.com), and at 312-606-3247 or [jzimmerman@hmblaw.com](mailto:jzimmerman@hmblaw.com), respectively.

3. 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

4. On May 13, 2014, the Department issued a Notice of Claim Denial to Petitioners for the 2011 tax year denying a refund in the amount of \$47,469 (“Notice #1”). On May 19, 2014, the Department issued a Notice of Claim Denial to Petitioners for the 2012 tax year denying a refund in the amount of \$62,688 (“Notice #2”). Notice #1 and Notice #2 will sometimes be referred to herein as the “Notices” and the Notices are attached hereto as Exhibit A. The 2011 tax year and 2012 tax year will sometimes be referred to herein as the “Years at Issue.”

## JURISDICTION

5. 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.

6. The Tribunal has jurisdiction over this matter pursuant to Sections 1-45 and 1-50 of the Tribunal Act because the Petitioners timely filed this petition within 60 days of the Notices.

## BACKGROUND

7. Ronald Benderson is a 17.93% shareholder in Benderson Properties, Inc., formerly known as Benderson Development Company, a Subchapter S corporation (“Benderson Development”).

8. Ronald Benderson is the grantor of the Benderson 1995 Trust which is a 30.44% shareholder in Benderson Development.

9. Ronald Benderson is also the grantor of the Benderson 93-3 Trust which is a 50% shareholder in Delta Sonic Car Wash, Inc., a Subchapter S Corporation (“Delta Sonic”).

10. For the 2000 through 2003 tax years, Delta Sonic filed separate Illinois income tax returns with the Department (“Delta Sonic’s Returns”).

11. The Department audited Delta Sonic’s Returns and determined that Delta Sonic is engaged in a unitary business with Benderson Development and therefore, the entities were required to file combined Illinois corporate income tax returns for the 2000 through 2003 tax years.

12. In 2009, Delta Sonic timely filed a Protest and Request for Hearing with the Department’s Office of Administrative Hearings arguing, among other things, that Delta Sonic and Benderson Development are not related through “common ownership”, which is a requirement for a unitary business provided by Illinois Income Tax Act (“Act”) Section 1501(a)(27) (“Unitary Case”).

13. The docket number assigned by the Office of Administrative Hearings to the Unitary Case is 10-IT-0229.

14. The parties in the Unitary Case have agreed that if Delta Sonic and Benderson Development are not related through “common ownership,” then Delta Sonic was not required to file its returns on a unitary combined basis with Benderson Development for the 2000 through 2003 tax years.

15. The parties in the Unitary Case submitted cross motions for summary judgment as to the issue of whether Delta Sonic and Benderson Development are related through “common ownership” to the Administrative Law Judge for consideration, but a decision has not been issued yet.

## ILLINOIS RETURNS AND NOTICES

16. Pursuant to its position in the Unitary Case, the Department has assessed the Petitioners additional Illinois income tax, interest and penalty for the 2000 through 2003 tax years as Ronald Benderson, either individually or as grantor of several trusts, owns shareholder interests in both Delta Sonic and Benderson Development.

17. Petitioners had an overpayment of \$12,250 from the 2010 tax year which Petitioners' sought to apply toward its tax liability for the 2011 tax year.

18. On October 15, 2012, Petitioners filed an IL-1040 Individual Income Tax Return for the 2011 tax year claiming a refund in the amount of \$47,469 ("2011 Original Return") as the result of an overpayment.

19. On December 6, 2012, the Department issued a Return Correction Notice to Petitioners, a copy of which is attached as Exhibit B, in which it reduced the amount of overpayment applied to 2011 tax year from the 2010 tax year, as the 2010 overpayment was used to offset unpaid liabilities for the 2001 tax year.

20. On December 6, 2012, the Department also issued a Notice of Overpayment Adjustment to Petitioners, a copy of which is attached as Exhibit C, indicating that the remaining overpayment of \$34,896 for the 2011 tax year was applied to unpaid liabilities for the 2001 and 2002 tax years.

21. On or about January 28, 2013, Petitioners filed an IL-1040-X Amended Individual Income Tax Return for the 2011 tax year claiming a protective refund in the amount of \$47,469 ("2011 Amended Return"). A copy of the first three pages of 2011 Amended Return is attached hereto as Exhibit D.

22. As the first page of the 2011 Amended Return indicates, Petitioners filed the 2011 Amended Return because the 2011 overpayment was used to offset liabilities for the 2001 and 2002 tax years.

23. On October 15, 2013, Petitioners filed an IL-1040 Individual Income Tax Return for the 2012 tax year claiming a refund in the amount of \$62,688 (“2012 Original Return”) as the result of an overpayment.

24. On October 26, 2013, the Department issued a Notice of Overpayment Adjustment to Petitioners, a copy of which is attached as Exhibit E, indicating that an overpayment of \$62,688 for the 2012 tax year was applied to unpaid liabilities for the 2002 and 2003 tax years.

25. On or about February 6, 2014, Petitioners filed an IL-1040-X Amended Individual Income Tax Return for the 2012 tax year claiming a protective refund in the amount of \$62,688 (“2012 Amended Return”). A copy of the first three pages of the 2012 Amended Return is attached hereto as Exhibit F.

26. As the first page of the 2012 Amended Return indicates, Petitioners filed the 2012 Amended Return because the overpayment was used to offset liabilities for the 2002 through 2003 tax years.

27. On May 13, 2014, the Department issued Notice #1 denying Petitioner’s refund claim for the 2011 tax year, and on May 19, 2014, the Department issued Notice #2 denying Petitioner’s refund claim for the 2012 tax year.

28. The resolution of the Unitary Case will determine whether the Petitioners owe additional Illinois tax for the 2000 through 2003 tax years, and whether the refunds claimed by

Petitioners on their Illinois Income Tax Returns for the Years at Issue can be used to offset the liabilities for the 2000 through 2003 tax years.

## COUNT I

### **Delta Sonic and Bendoron Development are not related through common ownership and are not unitary.**

29. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 27, inclusive, hereinabove.

30. Act Section 304(e) provides that when a taxpayer operates a “unitary business”, a part of which is conducted in Illinois by one or more members of the group, the taxpayer reports its income in combination with the income of all of its unitary business affiliates.

31. Under Act Section 1501(a)(27), a unitary business group is “a group of persons related through common ownership whose business activities are integrated with, dependent upon and contribute to each other.”

32. For a corporation, common ownership is direct or indirect control or ownership of more than 50% of the outstanding voting stock of the persons carrying on a unitary business activity. Act Section 1501(a)(27).

33. For purposes of determining common ownership, Illinois Administrative Code Section 100.9700(f) in place for the 2000 through 2003 tax years provides that for attribution of stock ownership among certain individuals, an individual is considered to have indirect control over any stock of the corporation that he constructively owns pursuant to the family attribution rule of Internal Revenue Code (“IRC”) Section 318(a)(1).

34. The family attribution rule of IRC Section 318(a)(1) provides for attribution of stock from one individual member of a family to another on a lineal basis so an individual is deemed to own stock owned by his spouse, children, grandchildren, and parents.

35. IRC Section 318(a)(1) does not attribute stock from one sibling to another.

36. Neither the Act nor the Department's Regulation incorporate the attribution rules under IRC Sections 318(a)(2) and (a)(3), which would attribute stock from a trust or entity to a natural person, or vice versa.

37. Because more than 50% of Delta Sonic and Benderson Development are owned by trusts, not individuals, the stock owned by these trusts may not be attributed to any individual, including the beneficiaries or the grantors.

38. Based on the application of the family attribution rule of IRC Section 318(a)(1), Delta Sonic and Benderson Development are not commonly owned as required by the Act, and are therefore not unitary for the 2000 through 2003 tax years.

39. Because Delta Sonic and Benderson Development are not engaged in a unitary business, the entities were not required to file a combined Illinois income tax return for the 2000 through 2003 tax years.

40. Given that Delta Sonic and Benderson Development are not unitary, the Petitioners do not owe additional Illinois tax for the 2000 through 2003 tax years to which overpayments from the Years at Issue may be applied, and therefore, the refunds claimed by Petitioners for the Years at Issue should be granted.

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

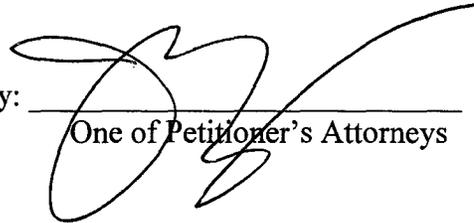
- (a) finds and declares that Delta Sonic and Benderson Development were not engaged in a unitary business;
- (b) enters judgment in favor of Petitioners and against the Defendant and orders Defendant to refund Petitioners' overpaid taxes;

(c) grants such further relief as the Tribunal deems appropriate under the circumstances.

Respectfully submitted,

RONALD BENDERSON & SUSAN JUSTINGER,  
Petitioner

By:



One of Petitioner's Attorneys

Fred O. Marcus (jzimmerman@hmblaw.com)  
David A. Hughes (dhughes@hmblaw.com)  
Jennifer A. Zimmerman (jzimmerman@hmblaw.com)  
Horwood Marcus & Berk Chartered  
500 W. Madison Street, Suite 3700  
Chicago, IL 60661  
(312) 606-3200

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



May 13, 2014



Letter ID: CNXXXX6331631X42

Account ID: P07891585  
Reporting Period: December 2011

\_\_\_\_\_  
#BWNKMGV  
#CNXX XX63 3163 1X42#  
RONALD BENDERSON  
\_\_\_\_\_  
570 DELAWARE AVENUE  
\_\_\_\_\_  
BUFFALO NY 14202



Dear Taxpayer:

We are writing regarding your 2011 Form IL-1040-X, Amended Individual Income Tax Return, dated January 29, 2013.

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 found a computation error on your return. This error has been corrected. Please compare the amounts shown on your return with the "IL-1040-X Financial Details" that follows.

We changed Line 24 from \$47,469.00 to \$34,896.00.

Your Form IL-1040-X Line 24 did not match the total amount of

- previous overpayments, refunds, or credit carryforward,
- your original voluntary contributions on Form IL-1040, and
- the use tax you reported on Form IL-1040.

We determined that Line 27 remains \$8,500.00.

We applied your 2010 overpayment of \$38,409.45 to your 2001 balance due. Therefore, we cannot credit this amount to your 2011 estimated payments.

We determined that Line 28 remains \$26,396.00.

The amount of pass-through entity payments or composite return payments must match the amount shown on your Schedules K-1-P or K-1-T.

If you disagree with our changes, please send us a copy of any Schedule K-1-P or K-1-T showing your pass-through entity payments.

If you do not agree with our determination, 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 you are not claiming an overpayment of tax 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. If you file a protest on time, we must reconsider our denial, and if requested, grant you or your authorized representative an administrative hearing. Your protest must be filed by sending us a completed Form EAR-14, Format for Filing a Protest for Income Tax. You should include with your protest all documentation supporting your refund claim, especially any documents requested in this letter. If we do not receive your protest within 60 days, this denial shall become final. A protest of this notice does not preserve your rights under any other notice.

If you do not protest this notice, the denial of your claim shall become final.

If you agree with the amount you owe on the "Form IL-1040-X Financial Details" page, send your payment to "Illinois Department of Revenue." Write your Account ID on your check and mail it to the address at the bottom of this letter. You must pay the total balance due within 30 days of the date of this notice to avoid additional penalty and interest.

If you are currently under the protection of the Federal Bankruptcy Court, please contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy "automatic stay" does not relieve your obligation to file tax returns. Please return a copy of this letter with any further correspondence.

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](http://tax.illinois.gov). Our address and telephone number are below.

Jason Huber  
Revenue Tax Specialist II

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

217 557-3563  
217 557-5353 fax

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

# Notice of Claim Denial

RONALD BENDERSON

## Summary



Letter ID: CNXXXX6331631X42  
Account ID: P07891585  
Reporting Period: December 2011

### Form IL-1040-X Financial Details

<i>Line Description</i>	<i>Amount</i>
<b>Income</b>	
1 Federal adjusted gross income (AGI)	10,210,002.00
2 Federally tax-exempt interest income	201,358.00
3 Other additions to your income	1,291,373.00
4 Total income	11,702,733.00
<b>Subtractions</b>	
5 Social Security and retirement income	0:00
6 Illinois refund included in US1040	0.00
7 Other subtractions to your income	2,422,259.00
8 Total subtractions	2,422,259.00
9 Illinois base income	9,280,474.00
<b>Exemptions</b>	
10 Exemption allowance	5,000.00
<b>Net Income</b>	
12 Net income (part-year & non-resident)	0.00
<b>Total tax</b>	
13 Tax	0.00
14 Recapture of investment tax credits	0.00
16 Total tax	0.00
<b>Nonrefundable Credits</b>	
17 Tax paid to another state	0.00
18 Schedule ICR credits	0.00
19 Schedule 1299-C credit	0.00
20 Total nonrefundable credits	0.00
21 Tax after nonrefundable credits	0.00
22 Household employment tax	0.00
23 Total tax	0.00
<b>Previous Overpayments</b>	
24 Previous overpayments, refunds, or credit carryforward, and original contributions	34,896.00
25 Tax after previous overpayments	34,896.00
<b>Payments and Refundable Credit</b>	
26 Illinois Income Tax withheld	0.00
27 Estimated payments (IL-1040-ES, IL-505-I, and prior year credit)	8,500.00
28 Pass-through entity payments	26,396.00
29 Earned Income Credit	0.00
30 Amount previously paid	0.00
31 Total payments and refundable credit	34,896.00
<b>Refund or Balance Due</b>	
33 Underpayment	0.00
Penalty	0.00
Interest	0.00
34 Total penalty and interest	0.00
36 Amount you owe	0.00
Payment with IL-1040-X	0.00
<b>Total amount you owe</b>	<b>0.00</b>

## **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, 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.

# Notice of Claim Denial

Form IL-1040-X, Amended Individual Income Tax Return



May 19, 2014



Letter ID: CNXXX14674695364

Account ID: P07891585

Reporting Period: December 2012



#BWNKMGV  
#CNXX X146 7469 5364#  
RONALD BENDERSON  
570 DELAWARE AVENUE  
BUFFALO NY 14202

Dear Taxpayer:

We are writing regarding your 2012 Form IL-1040-X, Amended Individual Income Tax Return, dated February 14, 2014.

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 found a computation error on your return. This error has been corrected. Please compare the amounts shown on your return with the "IL-1040-X Financial Details" that follows.

If you do not agree with our determination, 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 you are not claiming an overpayment of tax 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. If you file a protest on time, we must reconsider our denial, and if requested, grant you or your authorized representative an administrative hearing. Your protest must be filed by sending us a completed Form EAR-14, Format for Filing a Protest for Income Tax. You should include with your protest all documentation supporting your refund claim, especially any documents requested in this letter. If we do not receive your protest within 60 days, this denial shall become final. A protest of this notice does not preserve your rights under any other notice.

If you do not protest this notice, the denial of your claim shall become final.

If you agree with the amount you owe on the "Form IL-1040-X Financial Details" page, send your payment to "Illinois Department of Revenue." Write your Account ID on your check and mail it to the address at the bottom of this letter. You must pay the total balance due within 30 days of the date of this notice to avoid additional penalty and interest.

If you are currently under the protection of the Federal Bankruptcy Court, please contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy "automatic stay" does not relieve your obligation to file tax returns. Please return a copy of this letter with any further correspondence.

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](http://tax.Illinois.gov). Our address and telephone number are below.

Wenqian Xu

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

217 785-6673  
217 557-5353 fax

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

# Notice of Claim Denial

RONALD BENDERSON

## Summary



Letter ID: CNXXX14674695364

Account ID: P07891585

Reporting Period: December 2012

### Form IL-1040-X Financial Details

<i>Line Description</i>	<i>Amount</i>
<b>Income</b>	
1 Federal adjusted gross income (AGI)	37,985,541.00
2 Federally tax-exempt interest income	181,857.00
3 Other additions to your income	1,190,417.00
4 Total income	39,357,815.00
<b>Subtractions</b>	
5 Social Security and retirement income	0.00
6 Illinois refund included in US1040	0.00
7 Other subtractions to your income	230,464.00
8 Total subtractions	230,464.00
9 Illinois base income	39,127,351.00
<b>Exemptions</b>	
10 Exemption allowance	5,100.00
<b>Net Income</b>	
12 Net income (part-year & non-resident)	0.00
<b>Total tax</b>	
13 Tax	0.00
14 Recapture of investment tax credits	0.00
16 Total tax	0.00
<b>Nonrefundable Credits</b>	
17 Tax paid to another state	0.00
18 Schedule ICR credits	0.00
19 Schedule 1299-C credit	0.00
20 Total nonrefundable credits	0.00
21 Tax after nonrefundable credits	0.00
22 Household employment tax	0.00
23 Total tax	0.00
<b>Previous Overpayments</b>	
24 Previous overpayments, refunds, or credit carryforward, and original contributions	62,688.00
25 Tax after previous overpayments	62,688.00
<b>Payments and Refundable Credit</b>	
26 Illinois Income Tax withheld	0.00
27 Estimated payments (IL-1040-ES, IL-505-I, and prior year credit)	0.00
28 Pass-through entity payments	62,688.00
29 Earned Income Credit	0.00
30 Amount previously paid	0.00
31 Total payments and refundable credit	62,688.00
<b>Refund or Balance Due</b>	
33 Underpayment	0.00
Penalty	0.00
Interest	0.00
34 Total penalty and interest	0.00
36 Amount you owe	0.00
Payment with IL-1040-X	0.00
<b>Total amount you owe</b>	<b>0.00</b>

# 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, 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.

# Return Correction Notice

for Form IL-1040, Individual Income Tax Return



December 6, 2012 TDD 1 800 544-5304



Letter ID: CNXXXX6486358X86

Account ID: P07891585  
Reporting Period: December 2011

#BWNKMGV  
#CNXX XX64 8635 8X86#  
RONALD BENDERSON  
570 DELAWARE AVENUE  
BUFFALO NY 14202



## We are writing you regarding your Form IL-1040.



*Review Pages 2 and 3 for financial details and an explanation of our changes.*

*If you*

- *agree with our changes, send any amount due with the enclosed Taxpayer Statement. You must pay within 30 days, or by the original due date of your return, whichever is later, to avoid additional interest.*
- *disagree, send us Page 2, within 30 days, along with information to correct your return. Mail this information to the address listed below. See the "Explanation of IL-1040 Changes" starting on page 3 for details.*

If Page 2 shows an overpayment or no amount due and you agree, you do not need to respond. We will send you any refund due.

If you made payment within the past six weeks or have scheduled an electronic payment, that payment may not be reflected on this notice.

For questions, visit our web site or call one of the numbers above.

ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19084  
SPRINGFIELD, IL 62794-9084

**Return Correction Notice**

RONALD BENDERSON

Please return this page with any  
requested information

Letter ID: CNXXXX6486358X86

Account ID: P07891585

Reporting Period: December 2011

**IL-1040 Financial Details**

<i>Line Description</i>	<i>As Corrected</i>	<i>Brief Explanation of Our Changes</i>
<b>Income</b>		
1 Federal adjusted gross income (AGI)	10,210,002.00	
2 Federally tax-exempt interest income	201,358.00	
3 Other additions to your income	1,291,373.00	
4 Total income	11,702,733.00	
<b>Base Income</b>		
5 Social Security and retirement income	0.00	
6 Illinois refund included in US1040	0.00	
7 Other subtractions to your income	2,422,259.00	
8 Total subtractions	2,422,259.00	
9 Illinois base income	9,280,474.00	
<b>Exemptions</b>		
10 Exemption allowance	5,000.00	
<b>Net Income</b>		
12 Net income (part-year & non-resident)	0.00	
<b>Tax</b>		
13 Tax	0.00	
14 Recapture of investment tax credits	0.00	
15 Total tax	0.00	
<b>Nonrefundable Credits and Use Tax</b>		
16 Tax paid to another state	0.00	
17 Schedule ICR credits	0.00	
18 Schedule 1299-C credit	0.00	
19 Total nonrefundable credits	0.00	
20 Tax after nonrefundable credits	0.00	
22 Household Employment Tax	0.00	
23 Use Tax	0.00	
24 Total Tax	0.00	
<b>Payments and Refundable Credits</b>		
25 Illinois Income Tax withheld	0.00	
26 Estimated payments	8,500.00	>> Estimated payments changed
27 Pass-through entity payments	26,396.00	>> Need Schedule for pass-through payments
28 Earned Income Credit	0.00	
29 Total payments and refundable credit	34,896.00	
<b>Overpayment or Tax Due</b>		
30 Overpayment	34,896.00	
<b>Underpayment of Estimated Tax Penalty and Donations</b>		
32 Estimated tax penalty	0.00	
33 Donations from Schedule G	0.00	
34 Total penalty and donations	0.00	
<b>Refund or Amount You Owe</b>		
35 Remaining overpayment	34,896.00	
36 Amount to be refunded	34,896.00	
<b>Additional Penalty and Interest</b>		
Penalty	0.00	
Interest	0.00	
<b>Overpayment</b>	<b>34,896.00</b>	>> Do not pay this amount

**Return Correction Notice**

RONALD BENDERSON



Letter ID: CNXXXX6486358X86  
 Account ID: P07891585  
 Reporting Period: December 2011

**Explanation***Please make sure that*

- *your name and address are correct on Page 1. If this information is incorrect, cross through it, write the correct information, and return it to us.*
- *you include Page 2 when returning any requested attachments.*

**Explanation of IL-1040 Changes****Estimated payments changed**

We changed your estimated payments on Line 26 because our records and your return do not agree. The payments we have on file are listed below. If you disagree, please send us a copy of the front and back of each cancelled check or money order used to make your payments.

DATE RECEIVED	DOCUMENT NUMBER	REPORTING PERIOD	AMOUNT
06/23/2011	11175-104-05-043	12/2011	8,500.00

**Need Schedule for pass-through payments**

We changed your pass-through entity payments on Line 27 because

- we did not receive your Schedules K-1-P or K-1-T,
- your Schedules K-1-P or K-1-T were missing the tax year, company name and Federal Employer's Identification Number, or shareholder name and Social Security number.
- the payments were not made for the tax year in which you are claiming them, or
- the payments do not match the amount reported on the Schedules K-1-P or K-1-T attached to your return.

If you disagree with our changes, please send us any Schedules K-1-P or K-1-T showing these payments.

**Do not pay this amount**

Do not pay this amount. Your account is overpaid and you currently do not owe for this reporting period. We will send you a refund of any amount we owe you if no other liabilities or problems exist.

# Notice of Overpayment Adjustment



December 6, 2012



Letter ID: L1722377632

RONALD BENDERSON  
570 DELAWARE AVENUE  
BUFFALO NY 14202

Account ID: P07891585  
Reporting Period: December 2011



We applied your 2011 Illinois Individual Income Tax overpayment to the unpaid liabilities listed below.

If you have any questions about the application of your overpayment, please call the phone number listed below for the location your overpayment was applied.

Note: If you are currently under the protection of the Federal Bankruptcy Court, please contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy "automatic stay" does not relieve your obligation to file tax returns.

<b>Overpayment from:</b> IL Individual Income Tax: P07891585	
Overpayment amount	\$34,896.00
<b>Total overpayment available</b>	<b>\$34,896.00</b>

<b>Overpayment applied to the following</b>	<b>Phone Number</b>	<b>Offset Amount</b>
IL Individual Income Tax: P07891585		
December 2001	217-785-2698	\$13,782.33
December 2002	217-785-2698	\$21,113.67
<b>Remaining refund balance</b>		<b>\$0.00</b>

**Ronald Benderson**  
075-34-4824

**Statement regarding the filing of Form IL-1040-X for 2011**

The attached Form IL-1040-X is being filed because there was a potential overpayment offset to other period liabilities. Various pass-through entities were protested where the liabilities assessed would be eliminated. Therefore the amounts being held for possible offset should be refunded. Additionally this amended return reflects the correct amount of payments made by the taxpayer including the overpayment amount claimed in 2010 to be carried forward to 2011.

Illinois Department of Revenue  
**2011 Form IL-1040-X**  
 Amended Individual Income Tax Return

REV 12

**Step 1: Personal information**

Do not write above this line.

A Print or type your current Social Security number(s), name(s), and address.

Your Social Security number \_\_\_\_\_ Spouse's Social Security number \_\_\_\_\_  
**RONALD** **SUSAN JUSTINGER** **BENDERSON**  
 Your first name and initial Spouse's first name and initial (and last name - only if different) Your last name  
**570 DELAWARE AVENUE** **BUFFALO** **NY** **14202**  
 Mailing address Apt. number City State ZIP or Postal Code Foreign Nation, if not U.S.A.

- B  Check if your Social Security number(s), name(s), or address listed above are different from your previously filed return.  
 C Filing Status:  Single or head of household  Married filing jointly  Married filing separately  Widowed  
 D Residency:  Resident  Nonresident  Part-year resident  
 E  Check if same-sex civil union return (see instructions)  
 F Check the box that identifies why you are making this change. \*\*Attach a copy of your federal finalization. (see instructions)  
 \*\*Federal change accepted on \_\_\_\_\_  \*\*NOL accepted on \_\_\_\_\_  State change  
 Month Day Year Month Day Year

**Step 2: Reason for filing**

**STOP** If you are changing your Illinois return due to a change to your federal return that resulted in an overpayment, do not file this form until you receive notification that the Internal Revenue Service (IRS) accepted the changes.

G On what date did you file your original Form IL-1040 or your latest Form IL-1040-X? 10/15/2012

H Did you file a U.S. Form 1040X or Form 1045? If "yes," you must attach a copy to this form (see instructions).  yes  no

I Explain, in detail, the reason(s) for filing this amended return. Attach a separate sheet if necessary.  
 SEE STATEMENT 1

Staple W-2 and 1099 forms here.

**Step 3: Financial information**

Line numbers may not match your original return.

**Column A**

As originally reported or adjusted

**Column B**

Corrected figures

	Column A	Column B
	As originally reported or adjusted	Corrected figures
<b>Income</b>		
1 Federal adjusted gross income	1 <u>10210002.00</u>	1 <u>10210002.00</u>
2 Federally tax-exempt interest and dividend income	2 <u>201,358.00</u>	2 <u>201,358.00</u>
3 Other additions (attach Schedule M with amended figures)	3 <u>1,291,373.00</u>	3 <u>1,291,373.00</u>
4 Total income - Add Lines 1 through 3.	4 <u>11702733.00</u>	4 <u>11702733.00</u>
<b>Base Income</b>		
5 Social Security benefits and certain retirement plan income (attach U.S. 1040 or 1040A, page 1 with amended figures)	5 <u>.00</u>	5 <u>.00</u>
6 Illinois Income Tax overpayment included in U.S. 1040, Line 10 (attach U.S. 1040, page 1 with amended figures)	6 <u>.00</u>	6 <u>.00</u>
7 Other subtractions (attach Schedule M with amended figures)	7 <u>2,422,259.00</u>	7 <u>2,422,259.00</u>
8 Total subtractions. Add Lines 5 through 7.	8 <u>2,422,259.00</u>	8 <u>2,422,259.00</u>
9 Illinois base income. Subtract Line 8 from Line 4.	9 <u>9,280,474.00</u>	9 <u>9,280,474.00</u>
<b>Exemptions</b>		
10 Number of exemptions:		
a yourself and your dependents <u>2</u> x \$2,000	10a <u>4,000.00</u>	10a <u>4,000.00</u>
b 65 or older or legally blind <u>1</u> x \$1,000	10b <u>1,000.00</u>	10b <u>1,000.00</u>
c Add Lines 10a and 10b. This is your exemption allowance.	10c <u>5,000.00</u>	10c <u>5,000.00</u>
11 Residents only: Net income. Subtract Line 10c from Line 9.	11 <u>NONE.00</u>	11 <u>NONE.00</u>
12 Nonresidents and part-year residents only: Write your Illinois base income from Schedule NR. (attach Schedule NR with amended figures)	12 <u>.00</u>	12 <u>.00</u>
13 Residents: Multiply Line 11 by 5% (.05).	13 <u>NONE.00</u>	13 <u>NONE.00</u>
14 Nonresidents and part-year residents: Write the tax from Schedule NR.	14 <u>.00</u>	14 <u>.00</u>
14 Recapture of investment tax credits (attach Schedule 4255)	15 <u>NONE.00</u>	15 <u>NONE.00</u>
15 Income tax. Add Lines 13 and 14.		

Staple your check here.

Official Use



**Step 3 (Continued)**

	16	Income tax from Page 1, Line 15.	16	NONE 00	16	NONE 00
Nonrefundable Credits	17	Credit from Schedule CR (attach Schedule CR with amended figures)	17	.00	17	.00
	18	Property tax and K-12 education expense credit from Schedule ICR (attach Schedule ICR with amended figures)	18	.00	18	.00
	19	Credit from Schedule 1299-C (attach Schedule 1299-C with amended figures)	19	.00	19	.00
	20	Nonrefundable credits. Add Lines 17 through 19.	20	.00	20	.00
	21	Tax after nonrefundable credits. Subtract Line 20 from Line 16.	21	NONE 00	21	NONE 00
Other Tax	22	Household employment tax	22	.00	22	.00
	23	Total Tax. Add Lines 21 and 22.	23	NONE 00	23	NONE 00
Previous Overpayments	24	Total of all previous overpayments, refunds, or credit carryforward (whether or not you received it), original contributions, and use tax reported on your original return. (see instructions)	24	47,469.00	24	47,469.00
	25	Tax after previous overpayments and use tax. Add Lines 23 and 24.	25	-47,469.00	25	47,469.00
Payments and Refundable Credit	26	Illinois Income Tax withheld (see instructions)	26	.00	26	.00
	27	Estimated payments (IL-1040-ES, IL-505-I, and prior year credit)	27	20,750.00	27	20,750.00
	28	Pass-through entity payments - nonresident and part-year residents only (attach Schedule K-1-P or K-1-T)	28	26,719.00	28	26,719.00
	29	Earned income credit from Schedule ICR (attach Schedule ICR with amended figures)	29	.00	29	.00
	30	Amount of tax paid with original return plus additional tax paid after it was filed (see instructions)	30		30	.00
	31	Total payments and refundable credit. Add Column B, Lines 26 through 30.	31		31	47,469.00
<b>Step 4: Refund or Balance Due</b>						
Result	32	Overpayment. If Line 25 is less than Line 31, subtract Line 25 from Line 31.	32		32	47,469.00
	33	Underpayment. If Line 25 is greater than Line 31, subtract Line 31 from Line 25.	33		33	.00
	34	Penalty and interest (see instructions) <u>.00</u> + <u>.00</u> =	34		34	.00
		Penalty amount Interest amount				
	35	If Line 32 is greater than Line 34, subtract Line 34 from Line 32. This is your refund.	35		35	47,469.00
	36	If Line 32 is less than Line 34, subtract Line 32 from Line 34. <b>OR</b> If you have an amount on Line 33, add Lines 33 and 34. This is the amount you owe.	36		36	.00
<b>Step 5: Sign and Date and Third Party Designee</b>						
Sign and Date	Under penalties of perjury, I state that I have examined this return, and, to the best of my knowledge, it is true, correct, and complete.					
	Your signature	Date	Daytime phone number	Your spouse's signature	Date	
Third Party Designee	Paid preparer's signature Date Preparer's phone number Preparer's FEIN, SSN, or PTIN					
	<input type="checkbox"/> Check, and complete below, if you want to allow another person to discuss this return with the Illinois Department of Revenue. Designee's Name (please print) _____ Designee's Phone number _____					

Mail to: Illinois Department of Revenue, P.O. Box 19007, Springfield, IL 62794-9007

DR \_\_\_\_\_ ID \_\_\_\_\_ X3



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7010 2780 0003 6664 9560

**Ronald Benderson**  
**075-34-4824**

**Statement regarding the filing of Form IL-1040-X for 2012**

The attached Form IL-1040-X is being filed because there was is a potential overpayment offset to other period liabilities. Various pass-through entities were protested where the liabilities assessed would be eliminated. Therefore the amounts being held for possible offset should be refunded. Additionally this amended return reflects the correct amount of payments made by the taxpayer including the overpayment amount claimed in 2011 to be carried forward to 2012.

Illinois Department of Revenue  
**2012 Form IL-1040-X**  
 Amended Individual Income Tax Return

REV 12

**Step 1: Personal information**

Do not write above this line.

A Print or type your current Social Security number(s), name(s), and address.

Your Social Security number \_\_\_\_\_ Spouse's Social Security number \_\_\_\_\_  
**RONALD** **SUSAN JUSTINGER** **BENDERSON**  
 Your first name and initial Spouse's first name and initial (and last name - only if different) Your last name  
 570 DELAWARE AVENUE BUFFALO NY 14202  
 Mailing address Apt. number City State ZIP or Postal Code Foreign Nation, if not U.S.A.

B  Check if your Social Security number(s), name(s), or address listed above are different from your previously filed return.

C Filing Status:  Single or head of household  Married filing jointly  Married filing separately  Widowed

D Residency:  Resident  Nonresident  Part-year resident

E  Check if same-sex civil union return (see instructions)

F Check the box that identifies why you are making this change. \*\*Attach a copy of your federal finalization. (see instructions)

\*\*Federal change accepted on \_\_\_\_\_  \*\*NOL accepted on \_\_\_\_\_  State change  
 Month Day Year Month Day Year

**Step 2: Reason for filing**

**STOP** If you are changing your Illinois return due to a change to your federal return that resulted in an overpayment, do not file this form until you receive notification that the Internal Revenue Service (IRS) accepted the changes.

G On what date did you file your original Form IL-1040 or your latest Form IL-1040-X? 10/11/2013

H Did you file a U.S. Form 1040X or Form 1045? If "yes," you must attach a copy to this form (see instructions).  yes  no

I Explain, in detail, the reason(s) for filing this amended return. Attach a separate sheet if necessary.

SEE STATEMENT 1

Staple in-2 and 1040 forms here.

**Step 3: Financial information**

Line numbers may not match your original return.

	Column A	Column B
	As originally reported or adjusted	Corrected figures
<b>Income</b>		
1 Federal adjusted gross income	1 37985541.00	1 37985541.00
2 Federally tax-exempt interest and dividend income	2 181,857.00	2 181,857.00
3 Other additions (attach Schedule M with amended figures)	3 1,190,417.00	3 1,190,417.00
4 Total income - Add Lines 1 through 3.	4 39357815.00	4 39357815.00
<b>Base Income</b>		
5 Social Security benefits and certain retirement plan income (attach U.S. 1040 or 1040A, page 1 with amended figures)	5 _____ .00	5 _____ .00
6 Illinois Income Tax overpayment included in U.S. 1040, Line 10 (attach U.S. 1040, page 1 with amended figures)	6 _____ .00	6 _____ .00
7 Other subtractions (attach Schedule M with amended figures)	7 230,464.00	7 230,464.00
8 Total subtractions. Add Lines 5 through 7.	8 230,464.00	8 230,464.00
9 Illinois base income. Subtract Line 8 from Line 4.	9 39127351.00	9 39127351.00
<b>Exemptions</b>		
10 Number of exemptions:		
a yourself and your dependents <u>2</u> x \$2,050	10a 4,100.00	10a 4,100.00
b 65 or older or legally blind <u>1</u> x \$1,000	10b 1,000.00	10b 1,000.00
c Add Lines 10a and 10b. This is your exemption allowance.	10c 5,100.00	10c 5,100.00
<b>Net Income</b>		
11 Residents only: Net income. Subtract Line 10c from Line 9.	11 NONE.00	11 39122251.00
12 Nonresidents and part-year residents only: Write your Illinois base income from Schedule NR. (attach Schedule NR with amended figures)	12 .00	12 .00
<b>Tax</b>		
13 Residents: Multiply Line 11 by 5% (.05). Nonresidents and part-year residents: Write the tax from Schedule NR.	13 NONE.00	13 NONE.00
14 Recapture of investment tax credits (attach Schedule 4255)	14 .00	14 .00
15 Income tax. Add Lines 13 and 14.	15 NONE.00	15 NONE.00

Staple your check and IL-1040-X-V here.

Page 1 of 4

Official Use



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**Step 3 (Continued)**

	16 Income tax from Page 1, Line 15.	16	NONE 00	16	NONE 00
Nonrefundable Credits	17 Credit from Schedule CR (attach Schedule CR with amended figures)	17	.00	17	.00
	18 Property tax and K-12 education expense credit from Schedule ICR (attach Schedule ICR with amended figures)	18	.00	18	.00
	19 Credit from Schedule 1299-C (attach Schedule 1299-C with amended figures)	19	.00	19	.00
	20 Nonrefundable credits. Add Lines 17 through 19.	20	.00	20	.00
	21 Tax after nonrefundable credits. Subtract Line 20 from Line 16.	21	NONE 00	21	NONE 00
Other Tax	22 Household employment tax	22	.00	22	.00
	23 Total Tax. Add Lines 21 and 22.	23	NONE 00	23	NONE 00
Previous Overpayments	24 Total of all previous overpayments, refunds, or credit carryforward (whether or not you received it), original contributions, and use tax reported on your original return. (see instructions)	24	62,688.00	24	62,688.00
	25 Tax after previous overpayments and use tax. Add Lines 23 and 24.	25	62,688.00	25	62,688.00
Payments and Refundable Credit	26 Illinois Income Tax withheld (see instructions)	26	.00	26	.00
	27 Estimated payments (IL-1040-ES, IL-505-I, and prior year credit)	27	.00	27	.00
	28 Pass-through entity payments - nonresident and part-year residents only (attach Schedule K-1-P or K-1-T)	28	62,688.00	28	62,688.00
	29 Earned income credit from Schedule ICR (attach Schedule ICR with amended figures)	29	.00	29	.00
	30 Amount of tax paid with original return plus additional tax paid after it was filed (see instructions)	30	.00	30	.00
	31 Total payments and refundable credit. Add Column B, Lines 26 through 30.	31	62,688.00	31	62,688.00
Result	<b>Step 4: Refund or Balance Due</b>				
	32 Overpayment. If Line 25 is less than Line 31, subtract Line 25 from Line 31.	32	62,688.00	32	62,688.00
	33 Underpayment. If Line 25 is greater than Line 31, subtract Line 31 from Line 25.	33	.00	33	.00
	34 Penalty and interest (see instructions) <u>.00</u> + <u>.00</u> =	34	.00	34	.00
	35 If Line 32 is greater than Line 34, subtract Line 34 from Line 32. This is your refund. If you want to deposit your refund directly into your checking or savings account, complete the direct deposit information below. Routing number <input type="text"/> <input type="checkbox"/> Checking or <input type="checkbox"/> Savings Account number <input type="text"/>	35	62,688.00	35	62,688.00
	36 If Line 32 is less than Line 34, subtract Line 32 from Line 34. <b>OR</b> If you have an amount on Line 33, add Lines 33 and 34. This is the amount you owe.	36	.00	36	.00
Sign and Date	<b>Step 5: Sign and Date and Third Party Designee</b>				
	Under penalties of perjury, I state that I have examined this return, and, to the best of my knowledge, it is true, correct, and complete.  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><u><i>[Signature]</i></u> <u>8/6/14</u> Your signature Date</p> <p>_____ Paid preparer's signature Date</p> </div> <div style="width: 45%;"> <p>_____ Your spouse's signature Date</p> <p>_____ Preparer's phone number Preparer's FEIN, SSN, or PTIN</p> </div> </div>				
Third Party Designee	<input checked="" type="checkbox"/> Check, and complete below, to allow another person to discuss this return with the Illinois Department of Revenue.				
	Designee's Name (please print) <u>PAUL A. SPEAKER</u> Designee's Phone number <u>716-878-9369</u>				

Mail to: Illinois Department of Revenue, P.O. Box 19007, Springfield, IL 62794-9007

DR \_\_\_\_\_ ID \_\_\_\_\_ X3

281528 1.000

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This form is authorized as outlined under the Illinois Income Tax Act. Disclosure of this information is required. Failure to provide information could result in a penalty.