



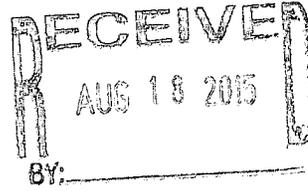
ZEBRA

Zebra Technologies Corporation
3 Overlook Point
Lincolnshire, IL 60069

p 847-634-6700
f 847-913-8766
zebra.com

August 14, 2015

Illinois Independent Tax Tribunal
Office of Legal Services
100 W Randolph St, 7-900
Chicago, IL 60601
Re: Petition



Dear Sir/Madam,

The Petitioner, Zebra Technologies Corporation, hereby petition the Illinois Independent Tax Tribunal to review and modify the Notice of Deficiency issued by the Illinois Department of Revenue for the reasons stated below.

- 1) The Notice of Deficiency was issued by the Department on 06/17/15 assessing a total deficiency of \$193,945.71 for taxable periods of 01/2008 through 12/2010. A copy of the Notice of Deficiency is attached to this Petition.
- 2) The petitioner is Zebra Technologies Corporation with its principal place of business in Lincolnshire, IL.
- 3) It is located at 3 Overlook Point, Lincolnshire, IL 60069 and the telephone number is 847/793-6745. The taxpayer account number is 36-2675536.

Sincerely,

Eileen Conrad

Payroll Manager

847-793-6745

Additional information for Protest Petition

3. The Department concluded that the entire adjustment made under the federal audit agreement was taxable and reportable to Illinois. Illinois calculated the deficiency based on that assumption. Most of the adjustments were based on payments to individuals who neither lived or worked in Illinois. We have created a worksheet for those individuals who were residents or lived in Illinois that would be basis for calculating the appropriate taxes.

Background and Relevant Facts

6-

An audit was initiated by the Internal Revenue Service for the periods 2008 through 2010. An agreement was reached by Zebra and the Internal Revenue Service that is outlined with the attached document.

There were 6 distinct matters covered by the audit

1. Payments under an acquisition, Wherenet
 2. Reclassification of payments made as 1099 to W-2
 3. Reclassification under IRC Section 3509 (a)
 4. Reclassification under IRC Section 3509 (b)
 5. Settlement for employee
 6. Stock deposit penalty
-
7. Payments under acquisition of Wherenet – Stock options paid to two executives of Wherenet were not reported as W-2 wages. The two employees lived and worked in California.
 8. Reclassification of payments reported on Form 1099s to W-2. There are 5 employees whereby 2 employees lived and/or worked in Illinois.
 9. Reclassification under IRC Section 3509 (a) for 9 employees
 10. Reclassification under IRC Section 3509 (b) for 9 employees
 11. Settlements to two former employees were reported on Form 1099. One of the two employees live/work in Illinois
 12. Stock deposit penalty for transactions related to two CA employees

Additional information for Protest Petition

Applicable Law

11. TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 100 INCOME TAX

SECTION 100.7000 REQUIREMENT OF WITHHOLDING (IITA SECTION 701)

Section 100.7000 Requirement of Withholding (IITA Section 701)

- a) General rules. Every employer maintaining an office or transacting business within this State and required under the provisions of 26 USC 3401 through 3404 to withhold and pay federal income tax on compensation paid in this State (see Section 100.7010 of this Part) to an individual is required to deduct and withhold from such compensation for each payroll period (as defined in 26 USC 3401), an amount computed in accordance with IITA Section 701 and 702. Illinois income tax is not required to be withheld on any compensation paid in this State of a character which is not subject to federal income tax withholding (whether or not such compensation is subject to withholding for federal taxes other than income tax, e.g., F.I.C.A. (Social Security taxes). (As to what constitutes "transacting business within this State", see Section 100.7020 of this Part.)

12.

Error 1

13. The assessment made by the IL Department of Revenue was based on the assumption that all earnings that were identified in the 2008-2010 federal audit were subject to IL taxes as provided under Section 100.700. This is not correct. We have the information to substantiate which employees are subject to IL taxes for which an amended return is required based on either working or living in Illinois.

14.

15.

Error 2

16.

Error 4

19.

Conclusion and Relief Requested

20. Petitioner requests that a review of the material submitted that will identify those individuals and the relevant payments that are reportable to Illinois.

Additional Information for Protest Petition

WHEREAS, Petitioner requests that the Notice of Deficiency be modified or cancelled for the reasons contained herein.



8/14/15

Todd R. Naughton

Vice-President, Business Transformation

Notice of Deficiency

for Form IL-941, Illinois Quarterly Withholding Tax Return



June 17, 2015



Letter ID: CNXXXXX889682X88

#BWNKMGV
#CNXX XXX8 8968 2X88#
ZEBRA TECHNOLOGIES CORP &
ZEBRA TECHNOLOGIES CORP &

3 OVERLOOK PT

LINCOLNSHIRE IL 60069-4302

Taxpayer ID: 36-2675536
Audit ID: A2053709824
Audit periods: 01/2008 - 12/2010
Total Deficiency: \$193,945.71
Balance due: \$193,945.71



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

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

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

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

If you have questions, contact us at the telephone number shown below.

Sincerely,

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD, IL 62794-9012
(217) 524-2230

FAX**Department of the Treasury
Internal Revenue Service****Date** 7/25/12**Number of pages including cover sheet** 39**Confidentiality Notice**

This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient, or the employee or agent for delivering the communication to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited.

If you have received this communication in error, please notify the sender immediately by telephone call and return the communication to the fax number you will be given, then destroy the document(s). Thank you!

TO:**ZEBR**Melody Sucharda
Tax Manager**Phone** 847 955 4732**Fax Phone** 847 793 5586**FROM:**Mary
Angelini**Phone 630-**
493-5175**Fax 630-**
493-5804**CC:****REMARKS:** Urgent For your review Reply ASAP Please Comment

Taxpayer: ZEBR

Form 2504-WC (March 2011)	Department of the Treasury-Internal Revenue Service Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment In Worker Classification Cases (Employment Tax)	(Data received by Internal Revenue Service)
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Name, SSN or EIN, and address of taxpayer(s) (Number, street, city or town, State, ZIP Code)
 Zebra Technologies Corporation
 333 Corporate Woods Pkwy
 Vernon Hills, IL 60061-3109 36-2675536

Adjustment to Tax, Credits and Penalties					
Tax Period Ended	Return Form Number	Kind of Tax and Internal Revenue Code Section	Amount of Tax	Credit Increase (Decrease)	Penalty
3/31/08-12/31/08	941	FICA & IT W/H IRC 3101, IRC 3111 & IRC 3402, IRC 3509(a), IRC 3509(b)	133,374.39		
3/31/09-12/31/09	941	FICA & IT W/H IRC 3101, IRC 3111 & IRC 3402, IRC 3509(a), IRC 3509(b)	133,374.39		
3/31/10-12/31/10	941	FICA & IT W/H IRC 3101, IRC 3111 & IRC 3402, IRC 3509(a), IRC 3509(b)	133,374.39		
Total			400,123.17		

I consent to the immediate assessment (*increase in tax and penalties and/or decrease in credits*) and collection of any such amounts. In addition, I accept any overassessment (decrease in tax and penalties and/or increase in credits) shown above, plus any by law. I understand that by signing this agreement, I am waiving the restrictions on assessment provided in section 7436(d) and 6213(a) of the Internal Revenue Code of 1986.

Sign Here			Date
Sign Here			Date
Sign Here	By	Title	Date

Note:

If you consent to the assessment of the amounts shown in this agreement, your signature will expedite our adjustment to your account. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are entitled to a refund. It will not prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

For a corporation, enter the officer or officers of the corporation followed by the signature and title of the officer(s) authorized to sign.

An agent or attorney acting under a Power of Attorney authorization must attach the authorization to this form unless it is already filed with us.

Who Must Sign

If you are making this agreement for a partnership, all partners must sign. However, one partner may sign with appropriate evidence of authorization to act for the partnership.

Memo: Abatement amount under IRC 3402(d) - See explanation on Form 4686					
Tax Period Ended	Return Form Number	Credit for abatement	Tax Period Ended	Return Form Number	Credit for abatement

Form 4668 (Rev. March 2011)		Department of the Treasury — Internal Revenue Service Employment Tax Examination Changes Report			Return form number 941
Name and Address of Employer Zebra Technologies Corporation 333 Corporate Woods Pkwy Vernon Hills, IL 60061-3109		Employer Identification Number 36-2675536		Calendar Year 2008	
		Total tax plus penalty or (decrease) in tax 133,374.39		Last quarter of this examination	
		Total Increase or (decrease) in credits 0.00		12/31/2010	
Examination discussed with (Name and title) Melody Saucharda		<input type="checkbox"/> Agreed (Subject to acceptance by the Director) <input type="checkbox"/> Unagreed			
		(b) 1st Quarter	(c) 2nd Quarter	(d) 3rd Quarter	(e) 4th Quarter
1. Total social security and Medicare tax adjustment (from Schedule of Adjustments, Line 7)		29,035.77	29,035.77	29,035.77	29,035.76
2. Social security and Medicare tax adjustment under IRC 3121(a) (from Schedule of Adjustments, Line 8)					
3. Increase (decrease) in tax exemption on exempt wages/tips (From Schedule of Adjustments, Line 10)					
4. Total income tax withholding (from Schedule of Adjustments Line 17)		4,307.83	4,307.83	4,307.83	4,307.83
5. Delinquent tax or increase (decrease) in tax (Lines 1, 2 and 4 minus/plus Line 3)		33,343.60	33,343.60	33,343.60	33,343.59
6. Net increase (decrease) in credits (from Schedule of Adjustments, Line 23)					
7. Penalty code section 6651(a)(1)					
8. Penalty code section 6651(a)(2)					
9. Penalty code section 6656					
10. Penalty code section					
11. Total penalty (sum of Lines 7, 8, 9 and 10)					
12. Maximum tax available for abatement under IRC 3402(d)		None	None	None	None

Form 2504-WC, section 7436 issues

Examiner's name Mary Angelini	Group Number 1163	Area LB&I:FS:ET	Date 7/24/2012
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Form 4668 (Rev. March 2011)		Department of the Treasury — Internal Revenue Service			Return form number 941
Employment Tax Examination Changes Report					
Name and Address of Employer Zebra Technologies Corporation 333 Corporate Woods Pkwy Vernon Hills, IL 60061-3109		Employer Identification Number 36-2675536		Calendar Year 2009	
		Total tax plus penalty or (decrease) in tax 133,374.39		Last quarter of this examination	
		Total increase or (decrease) in credits 0.00		12/31/2010	
Examination discussed with (Name and title) Melody Saucobarda		<input checked="" type="checkbox"/> Agreed (Subject to acceptance by the Director) <input type="checkbox"/> Unagreed			
		(b) 1st Quarter	(c) 2nd Quarter	(d) 3rd Quarter	(e) 4th Quarter
1. Total social security and Medicare tax adjustment (from Schedule of Adjustments, Line 7)		29,035.77	29,035.77	29,035.77	29,035.76
2. Social security and Medicare tax adjustment under IRC 3121(q) (from Schedule of Adjustments, Line 8)					
3. Increase (decrease) in tax exemption on exempt wages/tips (From Schedule of Adjustments, Line 10)					
4. Total income tax withholding (from Schedule of Adjustments Line 17)		4,307.83	4,307.83	4,307.83	4,307.83
5. Delinquent tax or increase (decrease) in tax (Lines 1, 2 and 4 minus/plus Line 3)		33,343.60	33,343.60	33,343.60	33,343.59
6. Net increase (decrease) in credits (from Schedule of Adjustments, Line 23)					
7. Penalty code section 6651(a)(1)					
8. Penalty code section 6651(a)(2)					
9. Penalty code section 6656					
10. Penalty code section					
11. Total penalty (sum of Lines 7, 8, 9 and 10)					
12. Maximum tax available for abatement under IRC 3402(d)		None	None	None	None

Under IRC sections 6051 and 6071 and the regulations under those sections, you are required to furnish Form W-2c (Corrected Wage and Tax Statement) on or before the last day of January _____ to each of the _____ employees whose wages are adjusted by this report. Also, you are required to file the original of these statements with Form W-3c (Transmittal of Corrected Wage and Tax Statements) by the last day of February _____, IRC 6721 and 6722 provide penalties for failure to file and failure to furnish these statements by the required dates. Please file these statements with:

Internal Revenue Service
 CCP-Scowcroft Building
 Mail Stop 4030
 1973 North Rulon White Blvd.
 Ogden UT 84404

Form 2504-WC, section 7436 issues

Examiner's name Mary Angelini	Group Number 1163	Area LB&I:FS:ET	Date 7/24/2012
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Catalog Number 23275Z www.irs.gov Form **4668** (Rev. 03-2011)

Form 4668 (Rev. March 2011)		Department of the Treasury — Internal Revenue Service			Return form number 941
Employment Tax Examination Changes Report					
Name and Address of Employer Zebra Technologies Corporation 333 Corporate Woods Pkwy Vernon Hills, IL 60061-3109		Employer Identification Number 36-2675536		Calendar Year 2010	
		Total tax plus penalty or (decrease) in tax 133,374.39		Last quarter of this examination 12/31/2010	
		Total increase or (decrease) in credits 0.00			
Examination discussed with (Name and title) Melody Saucharda		<input type="checkbox"/> Agreed (Subject to acceptance by the Director) <input type="checkbox"/> Unagreed			
		(b) 1st Quarter	(c) 2nd Quarter	(d) 3rd Quarter	(e) 4th Quarter
1. Total social security and Medicare tax adjustment (from Schedule of Adjustments, Line 7)		29,035.77	29,035.77	29,035.77	29,035.76
2. Social security and Medicare tax adjustment under IRC 3121(q) (from Schedule of Adjustments, Line 8)					
3. Increase (decrease) in tax exemption on exempt wages/tips (From Schedule of Adjustments, Line 10)					
4. Total income tax withholding (from Schedule of Adjustments Line 17)		4,307.83	4,307.83	4,307.83	4,307.83
5. Delinquent tax or increase (decrease) in tax (Lines 1, 2 and 4 minus/plus Line 3)		33,343.60	33,343.60	33,343.60	33,343.59
6. Net increase (decrease) in credits (from Schedule of Adjustments, Line 23)					
7. Penalty code section 6651(a)(1)					
8. Penalty code section 6651(a)(2)					
9. Penalty code section 6656					
10. Penalty code section					
11. Total penalty (sum of Lines 7, 8, 9 and 10)					
12. Maximum tax available for abatement under IRC 3402(d)		None	None	None	None

Form 2504-WC, section 7436 issues

Examiner's name Mary Angellini	Group Number 1163	Area LB&LFS:ET	Date 7/24/2012
Catalog Number 23275Z	www.irs.gov	Form 4668 (Rev. 03-2011)	

Form 2504 (March 2011)	Department of the Treasury-Internal Revenue Service Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment <i>(Exclude or Employment Tax)</i>	Date received by Internal Revenue Service
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Name, SSN or EIN, and address of taxpayer(s) (Number, street, city or town, State, ZIP Code)
 Zebra Technologies Corporation
 333 Corporate Woods Plwy
 Vernon Hills, IL
 60061-3109

36-2675536

Adjustment to Tax, Credits and Penalties					
Tax Period Ended	Return Form Number	Kind of Tax and Internal Revenue Code Section	Amount of Tax	Credit Increase (Decrease)	Penalty
3/31/08-12/31/08	941	FICA & TT W/H IRC 3101, IRC 3111 & IRC 3402	69,081.58		39,609.90
3/31/09-12/31/09	941	FICA & TT W/H IRC 3101, IRC 3111 & IRC 3402	69,081.58		39,609.90
3/31/10-12/31/10	941	FICA & TT W/H IRC 3101, IRC 3111 & IRC 3402	69,081.58		39,609.90
Total			207,244.74		118,829.70

I consent to the immediate assessment (*increase in tax and penalties and/or decrease in credits*) and the collection of any such amounts. In addition, I accept any overassessment (*decrease in tax and penalties and/or increase in credits*) shown above. I also agree to any interest as provided by law.

Sign Here		Date
Sign Here		Date
Sign Here	By _____ Title _____	Date _____

Note:

If you consent to the assessment of the amounts shown in this agreement, your signature will expedite our adjustment to your account. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are entitled to a refund. It will not prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

Who Must Sign

If you are making this agreement for a partnership, all partners must sign. However, one partner may sign with appropriate evidence of authorization to act for the partnership.

For a corporation, enter the officer or officers of the corporation followed by the signature and title of the officer(s) authorized to sign.

An agent or attorney acting under a Power of Attorney authorization must attach the authorization to this form unless it is already filed with us.

Memo: Abatement amount under IRC 3402(d) - See explanation on Form 4866					
Tax Period Ended	Return Form Number	Abatement amount	Tax Period Ended	Return Form Number	Abatement amount

Form 4668 (Rev. March 2011)		Department of the Treasury — Internal Revenue Service			Return form number 941
Employment Tax Examination Changes Report					
Name and Address of Employer Zebra Technologies Corporation 333 Corporate Woods Pkwy Vernon Hills, IL 60061-3109		Employer Identification Number 36-2675536		Calendar Year 2008	
		Total tax plus penalty or (decrease) in tax 108,691.48		Last quarter of this examination	
		Total increase or (decrease) in credits 0.00		12/31/2010	
Examination discussed with (Name and title) Melody Saucharda		<input type="checkbox"/> Agreed (Subject to acceptance by the Director) <input type="checkbox"/> Unagreed			
		(b) 1st Quarter	(c) 2nd Quarter	(d) 3rd Quarter	(e) 4th Quarter
1. Total social security and Medicare tax adjustment (from Schedule of Adjustments, Line 7)		15,138.47	15,138.47	15,138.47	15,138.45
2. Social security and Medicare tax adjustment under IRC 3121(q) (from Schedule of Adjustments, Line 8)					
3. Increase (decrease) in tax exemption on exempt wages/tips (From Schedule of Adjustments, Line 10)					
4. Total income tax withholding (from Schedule of Adjustments Line 17)		2,131.93	2,131.93	2,131.93	2,131.93
5. Delinquent tax or increase (decrease) in tax (Lines 1, 2 and 4 minus/plus Line 3)		17,270.40	17,270.40	17,270.40	17,270.38
6. Net increase (decrease) in credits (from Schedule of Adjustments, Line 23)					
7. Penalty code section 6651(a)(1)					
8. Penalty code section 6651(a)(2)					
9. Penalty code section 6656		9,902.48	9,902.48	9,902.48	9,902.46
10. Penalty code section					
11. Total penalty (sum of Lines 7, 8, 9 and 10)		9,902.48	9,902.48	9,902.48	9,902.46
12. Maximum tax available for abatement under IRC 3402(d)		2,131.93	2,131.93	2,131.93	2,131.93

Form 2504, non-section 7436 issues

Examiner's name Mary Angelini	Group Number 1163	Area LB&L:FS:ET	Date 7/24/2012
Catalog Number 23276Z	www.irs.gov	Form 4668 (Rev. 03-2011)	

Form 4668 (Rev. March 2011)	Department of the Treasury — Internal Revenue Service				Return form number 941
Employment Tax Examination Changes Report					
Name and Address of Employer Zebra Technologies Corporation 333 Corporate Woods Plwy Vernon Hills, IL 60061-3109		Employer Identification Number 36-2675536		Calendar Year 2009	
		Total tax plus penalty or (decrease) in tax 108,691.48		Last quarter of this examination	
		Total increase or (decrease) in credits 0.00		12/31/2010	
Examination discussed with (Name and title) Melody Saucharda		<input type="checkbox"/> Agreed (Subject to acceptance by the Director) <input type="checkbox"/> Unagreed			
	(b) 1st Quarter	(c) 2nd Quarter	(d) 3rd Quarter	(e) 4th Quarter	
1. Total social security and Medicare tax adjustment (from Schedule of Adjustments, Line 7)	15,138.47	15,138.47	15,138.47	15,138.47	
2. Social security and Medicare tax adjustment under IRC 3121(a) (from Schedule of Adjustments, Line 8)					
3. Increase (decrease) in tax exemption on exempt wages/tips (From Schedule of Adjustments, Line 10)					
4. Total income tax withholding (from Schedule of Adjustments Line 17)	2,131.93	2,131.93	2,131.93	2,131.93	
5. Delinquent tax or increase (decrease) in tax (Lines 1, 2 and 4 minus/plus Line 3)	17,270.40	17,270.40	17,270.40	17,270.38	
6. Net increase (decrease) in credits (from Schedule of Adjustments, Line 23)					
7. Penalty code section 6651(a)(1)					
8. Penalty code section 6651(a)(2)					
9. Penalty code section 6656	9,902.48	9,902.48	9,902.48	9,902.46	
10. Penalty code section					
11. Total penalty (sum of Lines 7, 8, 9 and 10)	9,902.48	9,902.48	9,902.48	9,902.46	
12. Maximum tax available for abatement under IRC 3402(d)	2,131.93	2,131.93	2,131.93	2,131.93	

Under IRC sections 6051 and 6071 and the regulations under those sections, you are required to furnish Form W-2c (Corrected Wage and Tax Statement) on or before the last day of January _____ to each of the _____ employees whose wages are adjusted by this report. Also, you are required to file the original of these statements with Form W-3c (Transmittal of Corrected Wage and Tax Statements) by the last day of February _____. IRC 6721 and 6722 provide penalties for failure to file and failure to furnish these statements by the required dates. Please file these statements with:

Internal Revenue Service
CCP-Scowcroft Building
Mail Stop 4030
1973 North Rulon White Blvd.
Ogden UT 84404

Form 2504, non-section 7436 issues

Examiner's name <u>Mary Angelini</u>	Group Number 1163	Area LB&TFS:ET	Date 7/24/2012
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Form 4668 (Rev. March 2011)	Department of the Treasury — Internal Revenue Service				Return form number 941
Employment Tax Examination Changes Report					
Name and Address of Employer Zebra Technologies Corporation 333 Corporate Woods Pkwy Vernon Hills, IL 60061-3109		Employer Identification Number 36-2675536		Calendar Year 2010	
		Total tax plus penalty or (decrease) in tax 108,691.48		Last quarter of this examination	
		Total increase or (decrease) in credits 0.00		12/31/2010	
Examination discussed with (Name and title) Melody Saucharda		<input type="checkbox"/> Agreed (Subject to acceptance by the Director) <input type="checkbox"/> Unagreed			
		(b) 1st Quarter	(c) 2nd Quarter	(d) 3rd Quarter	(e) 4th Quarter
1. Total social security and Medicare tax adjustment (from Schedule of Adjustments, Line 7)		15,138.47	15,138.47	15,138.47	15,138.45
2. Social security and Medicare tax adjustment under IRC 3121(q) (from Schedule of Adjustments, Line 8)					
3. Increase (decrease) in tax exemption on exempt wages/tips (From Schedule of Adjustments, Line 10)					
4. Total income tax withholding (from Schedule of Adjustments Line 17)		2,131.93	2,131.93	2,131.93	2,131.93
5. Delinquent tax or increase (decrease) in tax (Lines 1, 2 and 4 minus/plus Line 3)		17,270.40	17,270.40	17,270.40	17,270.38
6. Net increase (decrease) in credits (from Schedule of Adjustments, Line 23)					
7. Penalty code section 6651(a)(1)					
8. Penalty code section 6651(a)(2)					
9. Penalty code section 6656		9,902.48	9,902.48	9,902.48	9,902.46
10. Penalty code section					
11. Total penalty (sum of Lines 7, 8, 9 and 10)		9,902.48	9,902.48	9,902.48	9,902.46
12. Maximum tax available for abatement under IRC 3402(d)		2,131.93	2,131.93	2,131.93	2,131.93

Form 2504, non-section 7436 issues

Examiner's name Mary Angelini	Group Number 1163	Area LB&HFS:ET	Date 7/24/2012
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Zebra Technologies Corporation
 36-2675536
 2008, 2009, 2010 MA

Summary of Adjustments

	7/24/2012	Med Wage	SS Wage	FITW Wage	Medicare Tax	SS Tax	FITW	2008
ET1	D Wishes Stock 132,509.44 not on W2	132,509.44		17,675.00	3,842.77	-	4,418.75	8,261.52
ET1	Wherenef Stock S/H 1099	338,682.00	308,505.00		9,821.78	38,254.62	-	48,076.40
ET1	B Logsdon misclassified on 1,408,448.30 list	10,435.88	10,435.88	10,435.88	302.64	1,294.05	2,608.97	4,205.66
ET2	Reclass 1099 W2 EE	713,394.00	196,911.00		20,888.43	24,416.96	-	45,105.39
ET2	Reclass 3509(a) X .1068	956,833.84	592,797.50	956,633.84	16,645.43	44,104.13	14,349.51	75,099.07
ET2	Reclass 3509(b) X .1371	96,060.72	96,060.72	96,060.72	1,950.03	8,338.07	2,881.82	13,169.92
ET3	Settlements	46,000.00	46,000.00	6,000.00	1,334.00	5,704.00	1,500.00	8,538.00
ET4	Stock Deposit Penalty 1,408,446.30							15,068.78
ET4	Navis Stk Options 200,235.43							3,140.02
ET4	Stock Deposit Penalty 1,285,997.82- 92233.10=1203764.							21,401.10
		3,224,473.03			Total ET Due	Total ET Due	2008	242,065.87
					Total ET Due	Total ET Due	2009	242,065.87
					Total ET Due	Total ET Due	2010	242,065.87
					Total ET Due	2008, 2009, 2010		<u>726,197.61</u>

Form 886-A (Rev. January 1994)	Explanation of Items	Schedule number or exhibit Form 5701 ET 1 886A
Name of taxpayer ZEBRA TECHNOLOGIES CORPORATION	Tax Identification Number 36-2675536	Year/Period ended 200812 200912 201012

Issue: Stock Options and Stock Option Income as Wages

See Attached Spreadsheet

FACTS:

Some of the stock shares and some of the income associated with the stock shares did not have the proper amount of withheld for employee Social Security and Medicare taxes that should be considered as taxable income. It was determined that the value of these shares should be reported as taxable compensation during the period in which the shares vest and are sold to pay Employment Taxes. Based on the final review, it was determined there was an underpayment for the Social Security, Medicare and Federal Income Tax (FIT) withholding.

LAW:

Internal Revenue Code (IRC) §61 and Treasury Regulation (Reg) §1.61 provides that, except as otherwise provided, gross income means all income from whatever source derived, including, but not limited to, compensation for services including fees, commissions, fringe benefits, and similar items.

Per IRC §3402, an employer who makes payment of wages to an employee must deduct and withhold from these wages an income tax collected at the source determined by tables or computational procedures done on the wages paid. Under IRC §3402(d), if the employer does not withhold this income tax on the employee, the employer is responsible for payment of all taxes.

TAXPAYER'S POSITION:

In agreement.

CONCLUSION:

It is the government's position that the wages to the employees are subject to Social Security Medicare and Federal Income Tax.

Form 5701 (Rev. December 2006)	Department of the Treasury • Internal Revenue Service Notice of Proposed Adjustment			
Name of taxpayer ZEBRA TECHNOLOGIES CORPORATION	Issue No. ET-2			
Name and title of person to whom delivered Suchanek, Melody	Date 07/24/2012			
Entry for this proposed adjustment ZEBRA TECHNOLOGIES CORPORATION				
Based on the information we now have available and our discussions with you, we believe the proposed adjustment listed below should be included in the revenue agent's report. However, if you have additional information that would alter or reverse this proposal, please furnish this information as soon as possible.				
Years	Amount	Account or return line	SAIN NO.	Issue Code
200812	\$1,786,088.58	Other deductions (not listed)	528	03401.04-00
200912	\$1,786,088.58	Other deductions (not listed)	528	03401.04-00
201012	\$1,786,088.56	Other deductions (not listed)	528	03401.04-00

Reasons for Proposed Adjustment (If the explanation of the adjustment will be longer than the space provided below, the entire explanation should be put on Form 886-A (Explanation of Items).)

ISSUE: Whether certain workers should be reclassified from Independent Contractors to Employees

See 886A for Explanation of Law

Taxpayer's / Representative's Action: <input type="checkbox"/> Agreed <input type="checkbox"/> Agreed in Part <input type="checkbox"/> Disagreed <input type="checkbox"/> Have additional information; will submit by:	
Taxpayer's / Representative's Signature	Date
If Disagreed in Part or in Full - Check here for consideration of Fast Track Settlement: <input type="checkbox"/> Taxpayer <input type="checkbox"/> IRS	
Team Manager Merkle, Thomas W	Date 7.24.2012
Marjorie Cybulski <small>Digitally signed by Marjorie Cybulski DN: cn=Marjorie Cybulski, o=Internal Revenue Service, ou=IRS, email=marjorie.cybulski@irs.gov, c=US</small> Acting Team Manager 1163	

Form 886-A (Rev. January 1994)	Explanation of Items	Schedule number or exhibit Form 5701 ET 2 886A
Name of taxpayer ZEBRA TECHNOLOGIES CORPORATION	Tax Identification Number 36-2675538	Year/Period ended 200812 200912 201012

not constitute "holding one's self out to others. . . ."

Treasury Regulation § 31.3121(d)-1(c)(2) provides that generally, the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the individual who performs the services not only as to the results to be accomplished by the work, but also as to the details and means by which the result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done, but also as to how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which services are performed; it is sufficient if he or she has the right to do so. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished and not as to the means and methods for accomplishing the result, he is an independent contractor.

In determining whether an individual is an employee or an independent contractor under the common law, all evidence of control and autonomy must be considered. Facts illustrate whether there is a right to direct or control how the worker performs the specific tasks for which he or she is hired, whether there is a right to direct or control how the aspects of the worker's activities are conducted, and how the parties perceived their relationship. These factors provide evidence of the degree of control and autonomy.

Treasury Regulation § 31.3121(d)-1(a)(3) provides that if the relationship of an employer and employee exists, the designation or description of the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, co-adventurer, agent, independent contractor, or the like.

In interpreting the code sections listed above, the courts have considered many factors in deciding whether a worker is an independent contractor or employee. These relevant factors fall into three main categories: behavioral control, financial control, and relationship of parties.

Behavioral Control: These facts show whether there is a right to direct or control how the worker does the work. A worker is an employee when the business has the right to direct and control the worker. The business does not actually have to direct or control the way work is done – as long as the employer has the right to direct and control the work.

Financial Control: These facts show whether there is a right to direct or control the business part of the work. The three indicators of financial control include financial investment of the contractor, opportunity for profit or loss and paying the business expenses that arise in the course of the work being performed.

Relationship of the parties: These are facts that illustrate how the business and the worker perceived their relationship. The payment of employee benefits and the written contract are indicators of how the parties perceived their relationship.

Social Security and Medicare Tax: Internal Revenue Code § 3101 and § 3111 impose Federal Insurance Contributions Act (FICA) tax on "wages," as that term is defined in § 3121(a). OASDI (FICA) taxes consist of the Old Age, Survivors and Disability Insurance tax (Social Security tax) and the hospital insurance tax (Medicare tax). These taxes are imposed on an employer under § 3111(a) and (b) on the wages paid by the employer with respect to employment (employer portion of OASDI (FICA)

Form 886-A (Rev. January 1994)	Explanation of Items	Schedule number or exhibit Form 5701 ET 2 886A
Name of taxpayer ZEBRA TECHNOLOGIES CORPORATION	Tax Identification Number 36-2675536	Year/Period ended 200812 200912 201012

subject to direction and control. When the success or continuation of the business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the business. The work performed by the individuals classified as independent contractors were critical to the company's goals.

The nature of a worker's occupation also affects the degree of direction and control necessary to determine worker states. Highly trained professionals such as art directors, photographers may require very little, if any, training and/or instruction on how to perform their services. Nevertheless, an employer-employee relationship can exist between a business and workers. The absence of need to control should not be confused with the absence of right to control. Review of the independent contracts showed that the independent contractors need to work closely with current employees to set and adjust priorities.

Financial Control:

If the payment for services is by the hour, week, or month, generally points to an employer-employee relationship, provided that his method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Where as, a payment made by the job or on straight commission generally indicates that the worker is an independent contractor. The individuals classified as independent contractor were paid based on an hourly set amount. When the individuals billed for their services, the number of hours worked was shown on the invoices and the total amount of the invoices was the number of hours worked times the hourly agreed amount.

If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. Based on the review of the independent contractor agreements, the company was responsible for the payment of reasonable expenses to be incurred in connection with the delivery of the services.

If the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. Review of the independent contractor agreements show that upon termination the individual returns all property of the company including equipment, business or product plans, and other records, and any materials generated or produced by the contractor in providing the services.

A worker who can realize a profit or suffer a loss as a result of the worker's services is generally an independent contractor, but the worker who cannot is an employee. If the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that the worker is an independent contractor. It is sometime asserted that because a worker can receive more money by working longer hours or receive less money by working less, the worker has the ability to incur a profit or loss. This type of income variation, however, is consistent with employee status. Based on the review of the independent contractor agreements, the company was responsible for the payment of reasonable expenses to be incurred in connection with the delivery of the services. Therefore, the independent contractor doesn't have the ability to realize a profit or incur a loss.

Relationship of the Parties:

The factors of relationship of the parties reflect how the worker and the business perceived their

Zebra Technologies Corporation
 36-2675536
 2008, 2009, 2010
 1099 Income and W2
 7/24/2012

Total Wages Reclassed	713,394.00
	956,633.84
	<u>96,060.72</u>
	1,766,088.56

1099 Income and W2
 Employees

vendor list	Wages	Medicare			FITW wages	Medicare	FICA	FITW	Total
		Wage	FICA Wage						
Liz Valdes	5,213	5,213	5,213	5,213		151	646		798
Kris Olsen	22,148	22,148	22,148	22,148		642	2,746		3,389
Claudio Ramirez	43,950	43,950	43,950	43,950		1,275	5,450		6,724
Craig Ebersole	150,823	150,823	150,823	102,000		4,374	12,648		17,022
Ed Kaplan X CEO									
Sev	491,260	491,260	491,260	23,600	-	14,247	2,926	-	17,173
	<u>713,394</u>	<u>713,394</u>	<u>713,394</u>	<u>196,911</u>	<u>-</u>	<u>20,688</u>	<u>24,417</u>	<u>-</u>	<u>45,105</u>
									<u>45,105</u>
								2008	45,105.39
								2009	45,105.39
								2010	45,105.39
								Total ET Due	<u>135,316.17</u>

Zebra Technologies Corporation

36-2675536

2008, 2009, 2010 MA

Individuals Reclassified 3509(a)

7/24/2012

	Med	SS	FITW	Total	3509(a)
EILEEN ECK	306,000.00	102,000.00	306,000.00		
SUSAN P LANDIS	216,163.00	102,000.00	216,163.00		
BRIAN R KENDALL	134,740.00	102,000.00	134,740.00		
JOANNE E KELSEY	31,910.00	31,910.00	31,910.00		
DANE WATKINS	68,220.00	68,220.00	68,220.00		
KAREN ELLIS-WHITE USE 20527	26,127.00	26,127.00	26,127.00		
BOB SMITH	34,582.50	34,582.50	34,582.50		
*JENNY MORGAN	114,933.34	102,000.00	114,933.34	1099 for 44,333.35	
GINNY MILLAR	23,958.00	23,958.00	23,958.00		
	<u>956,633.84</u>	<u>592,797.50</u>	<u>956,633.84</u>		
EE Social Security Medicare					
FITW	0.0029	0.0124	0.015		0.0303
	<u>2,774.24</u>	<u>7,350.69</u>	<u>14,349.51</u>	24,474.43	
	956,633.84	592,797.50			
ER Social Security Medicare	0.0145	0.062			0.0765
	<u>13,871.19</u>	<u>36,753.45</u>		50,624.64	
Total Employment Tax Due	<u>16,645.43</u>	<u>44,104.13</u>	<u>14,349.51</u>	<u>75,099.07</u>	0.1068
			2008	75,099.07	
			2009	75,099.07	
			2010	75,099.07	
			Total ET Due	<u>225,297.21</u>	

Form 886-A (Rev. January 1994)	Explanation of Items		Schedule number or exhibit Form 5701 ET 3 886A
Name of taxpayer ZEBRA TECHNOLOGIES CORPORATION	Tax Identification Number 36-2675536	Year/Period ended 200812 200912 201012	

ISSUE: Whether settlement payment to a former employee constitute wages subject to Federal Income Tax and OASDI (FICA)/Medicare Tax withholding.

	2008	2009	2010	
Medicare Wages	46,000	46,000	46,000	
	667.00			
EE Med X .0145		667.00	667.00	
ER Med X .0145	667.00	667.00	667.00	
EE ER Medicare	1,334.00	1,334.00	1,334.00	
SS Wage	46,000	46,000	46,000	
	2,852.00	2,852.00	2,852.00	
EE SS X .062 (2011 .042)				
ER SS X .062	2,852.00	2,852.00	2,852.00	
EE ER Social Security	5,704.00	5,704.00	5,704.00	
FITW Tax \$6000. X 25%	1,500.00	1,500.00	1,500.00	
Total Employment Tax	8,538.00	8,538.00	8,538.00	25,614.00

FACTS:

During 2008, settlement agreements were entered into between the Taxpayer (TP) and former employees. The agreements were entered into to resolve such alleged employee claims as age discrimination, wrongful termination, and retaliation. The settlement payment relieves the company of the expenses of more potential liabilities and attorney fees relating to taking these cases to court. A review of this settlement payment revealed that the TP failed to allocate proper amounts to wages even though the former employee alleged lost *wages, earning potential* and *job benefits*. Information returns were filed for the former employees that had received the settlement amount.

LAW:

The taxability of court settlements, or through a settlement agreement entered into in lieu of such prosecution, falls under section 104(Compensation for injuries or Sickness) and related regulations.

IRC 104(a)(2), as amended by section 1605 of the Small Business Job Protection Act of 1996, provides generally that gross income does not include amount of any damages received (whether by suit or agreement) on account of *personal physical injuries* or *physical sickness*. Section 104(a) further provides that, for purposes of paragraph (2), emotional distress is not treated as physical injuries or physical sickness except to the extent of damages paid for medical care (described in IRC213(d)(1)(A) attributable to emotional distress.

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Name of taxpayer ZEBRA TECHNOLOGIES CORPORATION	Tax Identification Number 36-2675536	Year/Period ended 200812 200912 201012

Internal Revenue Code 3102(a) provides the requirement that the tax imposed by 3301 shall be collected by the employer of the individual, by deducting the amount of the tax from the wages paid.

Internal Revenue Code 3102(b) provides every employer required so to deduct the tax shall be liable for the payment of such tax.

TAXPAYER'S POSITION:

In Agreement

GOVERNMENT'S POSITION:

The government concludes that the settlement payment to the former employee is "wages" under Internal Revenue Code 3401(a) and 3121(a) and are subject to the employment taxes computed under section 3402(a), 3101 and 3111. The TP has provided no evidence that the lawsuit settlements were assessed on anything other than lost wages and benefits. The TP has not provided any evidence that the payment to prior employees have been compensation for any medical bills for any medication or for any medical payments for physical injuries. The company is liable for the employment tax computed under the full rate for the employee and employer share of the OASDI (FICA) up to the wage limits and Medicare Tax. As an alternative to conducting an in-depth analysis of settlements for the 2009 and 2010 tax years and to help facilitate case closing and to reduce taxpayer burden by having the taxpayer provide a large quantity of records, the Service discussed the use of a mutually agreed upon resolution technique with the taxpayer to resolve the issue for these years. Since a review of the 2008 settlements resulted in an adjustment, it is being proposed to apply the net audit adjustment from the 2008 tax year to the 2009 and 2010 tax year. To reduce taxpayer burden and help facilitate case closing, FITW was not assessed on individuals who received a 1099.

Form 886-A (Rev. January 1994)	Explanation of Items	Schedule number or exhibit Form 5701 ET 4 886A
Name of taxpayer ZEBRA TECHNOLOGIES CORPORATION	Tax Identification Number 36-2675536	Year/Period ended 200812 200912 201012

ISSUE: Deposit Penalty

The taxpayer is liable for late deposit penalties on withholding taxes due on wages constructively paid on the exercise of non-statutory stock options.

ADJUSTMENTS:	2008	2009	2010
Deposit Penalty on Stock Options	396,099.00	396,099.00	396,099.00
	x 10%=	x 10%=	x 10%=
	39,609.90	39,609.90	39,609.90

FACTS:

The Taxpayer granted qualified employees stock options under the company's plan. Employees who were granted stock options exercised these options in 2008 and 2009. An analysis was conducted to determine if the options being exercised had the appropriate taxes withheld and to determine the taxes related to the options were timely deposited. The results indicated that some deposits were late.

The taxpayer is required to deposit the withholding taxes on stock option exercises within one day, if the amount exceeds \$100,000, or by the next semi-weekly due date, if accumulated amounts do not exceed \$100,000.

LAW:

Internal Revenue Code (IRC) §83(a) provides that if in connection with the performance of services, property is transferred to any person other than the person for whom services were performed, the excess of the fair market value of such property at the first time the rights of the person having a beneficial interest are transferable or are not subject to a substantial risk of forfeiture over the amount paid for such property shall be included in income of the service performer in the first taxable year in which the rights of that person in the property are transferable or are not subject to a substantial risk of forfeiture.

Treasury Regulation (Reg) §1.83-7 provides that with regard to a stock option without a readily ascertainable fair market value at date of grant, IRC §83(a) and (b) shall apply at the time the option is exercised or otherwise disposed of.

Reg §1.83-7 further provides that IRC §83(a) and (b) apply to the transfer of property pursuant to such exercise, and the employee realizes compensation upon such transfer at the time and in the amount determined under IRC §83(a) and (b).

For purposes of taxes imposed under the Federal Insurance Contributions Act (FICA), Reg §31.3121(a)-2(b) provides that wages are paid by an employer at the time they are actually or constructively paid. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not actually reduced to possession. To constitute payment in such a case the wages must be credited or set apart for the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is made, and must be made available to him so that they may be drawn

Form 886-A (Rev. January 1994)	Explanation of Items	Schedule number or exhibit Form 5701 ET 4 886A
Name of taxpayer ZEBRA TECHNOLOGIES CORPORATION	Tax Identification Number 36-2675536	Year/Period ended 200812 200912 201012

IRC 6656(b)(1)(A)(iii) 10 percent if the failure is for more than 15 days.

TAXPAYER'S POSITION:

In Agreement

CONCLUSION:

The Government concludes that late deposit penalties under IRC §6656(a) are warranted for the deposits determined to be made after the due dates determined by the semi-weekly deposit requirements and the over \$100,000 deposit requirements; but they did not comply with the plain language of the Code section and the regulation section which states that deposits must be made the next day after accumulating a tax liability of \$100,000 or more.