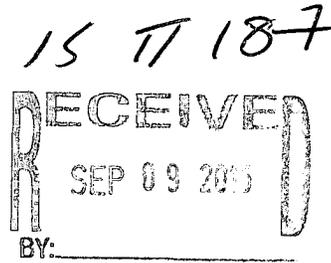


ILLINOIS INDEPENDENT  
TAX TRIBUNAL

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JASON SZMURLO )  
Petitioner )  
 )  
v. )  
 )  
ILLINOIS DEPARTMENT OF REVENUE )  
Respondent )

---



**PETITION**

The Petitioner, Jason Szmurlo, by and through his attorneys, Stevens & Associates, P.C., hereby petitions the Illinois Independent Tax Tribunal to review and reverse and/or modify the Notice of Penalty Liability ID 1420546 (“Notice”) issued by the Illinois Department of Revenue (“Department”), for the reasons stated below:

**INTRODUCTION**

1. The “Notice” was issued by the Department on or about 13 August 2012, assessing liability in the amount of \$43,355.00 in tax, \$17,617.00 in penalties, and \$12,154.34 in interest for taxable periods January 1, 2006 through September 30, 2010, pursuant to an audit of Jayko Enterprises, LLC by the Department of Revenue that concluded in May 2011 (“Audit”), with respect to the sale of smoking woodchips and similar products to restaurants by said entity.

2. Due to extremely poor communication with prior accountants and attorneys that have represented Taxpayers with respect to this matter, the Taxpayers are unclear as to the procedural history regarding acceptance of Form EDA 105-R, the Notice of Penalty Liability, and does not have a copy of the initial Notice. Appended hereto as Exhibit A are copies of the Notice of Audit Results, as well as various Taxpayer Statements and Notices of Intent for Collection Activity that are currently in the Taxpayer’s possession.

3. Petitioner filed a petition for a late discretionary hearing with the Department on or about 22 April 2015, seeking a relief with respect to the Notice. On 17 July 2015, the Chief Administrative Law Judge granted the request for a late discretionary hearing and referred the Petitioner to file this Petition, given that the protest amount exceeds \$15,000.00. A true and correct copy of such determination is appended hereto as Exhibit B.

4. Petitioner is an individual or stated by the Department to be a Responsible Officer of Jayko Enterprises, LLC a former Illinois limited liability company (dissolved on February 14, 2014), with a business address is 800 Bach Court, Woodstock, IL 60098. The business no longer maintains a telephone number. The Taxpayer Account number is 3860-1532. Petitioner's telephone number is 815-405-7552.

5. Respondent, Illinois Department of Revenue, is an agency of the State of Illinois responsible for administering and enforcing the revenue laws of the State of Illinois.

### **JURISDICTION**

6. The Tribunal has original jurisdiction over all Department determinations reflected on Notices of Penalty Liability, among other notices, where the amount at issue exceeds \$15,000.00, exclusive of penalties and interest. 35 ILCS Section 1010/1-45

### **BACKGROUND AND RELEVANT FACTS**

7. Jayko regularly filed ST-1 returns with respect to its business activity, indicating that a majority of its sales were exempt from Retailer Occupation Tax and/or Use Tax on the basis that they were sales made to resellers.

8. Jayko was primarily engaged in the business of selling smoking woodchips and similar products to restaurants ("Resellers") for use in the preparation of smoke-flavored foods sold to restaurant patrons. Reseller clients included restaurants such as Adobo Grill, Aigredoux,

Blackbird, Brazzaz, Charlie Trotter's, Fogo De Chao, Jake Melnick's Corner Tap, Spiaggia, Vinci, and various others in Chicago and the surrounding suburbs.

9. Jayko regularly collected Reseller Certificates from the Resellers with respect to such sales.

10. The goods sold to Resellers were for purposes of flavoring the food, similar to an herb, spice or other ingredient.

11. Barbequed foods are nearly always advertised as "smoky," with even the species of wood being included in the description. Attached as Exhibit C is a statement obtained from a local chef, Kirk Bachmann, regarding the use of smoke in food preparation as a preservative and source of flavor.

12. To the best of Taxpayers' knowledge, its goods were not necessary to or used by its purchasers for the purpose of cooking food products, but merely for the purpose of infusing a smoke flavoring into the food products.

#### **APPLICABLE LAW**

13. Pursuant to 35 ILCS 120/1, "property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or byproduct of manufacturing."

14. Further, pursuant to 35 ILCS 120/2c, "a sale shall be made tax-free on the ground of being a sale for resale if the purchaser has an active registration number or resale number from the Department and furnishes that number to the seller in connection with certifying to the seller that any sale to such purchaser is nontaxable because of being a sale for resale."

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

16. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion, and a taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

### **ERRORS**

17. It is Taxpayers' understanding that, through the course of the Audit, the auditor took the position that, unlike rosemary or apples (which are similarly used), the smoking woodchips were used as part of the manufacturing process and not as an ingredient of the finished food products sold by the Resellers at retail.

18. It is further Taxpayers' understanding that as a result of the processing nature of the goods, the Auditor determined that 20% of the sales price of the goods was not a sale for resale (as it was production waste), and issued the corresponding ST-1 assessment upon Jayko for the additional tax, penalties, and interest on 20% of the woodchip sales for the audit period.

19. The Auditor acknowledged that the sales in question were primarily for resale. The Auditor's position in the instant case is equivalent to disallowing a Reseller Certificate for the portion of a sale of comprised of apple peels or rosemary stems. There are many items yielding waste or leftover food products sold to Resellers which do not invalidate the producer-Reseller relationship or require a proportionate allocation.

20. The audit determination puts Illinois producers at unreasonable risk, as is would be difficult, even upon inquiry of the Resellers, to ascertain the amount of residue such as ash (or peels or stems) and ensure that they reach the same waste/resale ratio allocation as a potential

Department auditor. Petitioner respectfully suggests that such position is contrary to applicable law.

21. Even if the tax assessment on the residual ash component of the smoking woodchips is appropriate under applicable regulations, the Petitioner reasonably relied upon the Reseller Certificates (as provided in 35 ILCS 120/2c) in determining, collecting, reporting, and remitting its ST-1 liabilities, and therefore should not be responsible for any penalties or interest associated with the failure to timely remit the taxes allegedly due based on the Auditor's assessment of the impact of the ash residue portion of the goods sold.

22. The Department has been engaged in collection activity against Petitioner since 2012, and has collected approximately \$30,000.00 through bank account and wage garnishments upon Petitioner.

WHEREAS, Petitioner requests that the "Notice" be modified or canceled for the reasons contained herein.

Respectfully submitted,

Jason Szmurlo

By:   
One of his Attorneys

Adrienne W. Chan – ARDC #6271997  
K. Thomas Stevens – ARDC #6201981  
Stevens & Associates, P.C.  
200 West Superior Street, Suite 410  
Chicago, IL 60654  
(312) 786-2244



**Notice of Audit Results**  
**for Sales, Use, and Excise Taxes and Fees**

May 27, 2011

#BWNKMGV  
#CNXX X211 5146 7845#  
JAYKO ENTERPRISES LLC  
ATTN: GAIL MULVIHILL  
845 OAKTON ST  
ELK GROVE VLG IL 60007-1904



Letter ID: CNXXX21151467845

Taxpayer ID: 20-3474612  
Account ID: 3860-1532  
Audit ID: A1958728192  
Return type: ST-1  
Audit periods: 01/2006 - 09/2010



Enclosed, please find Form EDA-105-R ROT Audit Report showing the amount of tax, penalty, and interest that is due as the result of an audit. You have 30 days from the "interest through date," May 27, 2011, on Form EDA-105-R to sign it and remit payment without accruing additional penalty. Form EDA-105-R constitutes a notice and demand for purposes of Section 3-2 and an amended return for purposes of Section 3-3 of the Uniform Penalty and Interest Act. Please note, if you sign the Audit Report you waive the right to seek review by the Informal Conference Board.

If you do not sign Form EDA-105-R and pay the tax shown due within 30 days from the "interest through date," you may be assessed an additional late payment penalty. If you sign EDA-105-R but you do not pay the entire amount due, a Notice of Assessment will be issued. If you do not sign Form EDA-105-R, a Notice of Tax Liability will be issued explaining your rights to protest the liability and to request an administrative hearing. Interest will continue to accrue until the tax has been paid in full.

Mail your payment and the signed Form EDA-105-R to the address below.

If you are operating under the protection of the Federal Bankruptcy Court, you must contact us immediately to stop collection action. You must provide the bankruptcy number and the bankruptcy court. The bankruptcy "automatic stay" does not relieve your obligations to file tax returns.

Sincerely,

Anamaria Colon

ILLINOIS DEPARTMENT OF REVENUE  
YOLANDA COCHRAN  
JAMES R THOMPSON CENTER  
AUDIT BUREAU  
100 W RANDOLPH ST 7-300  
CHICAGO IL 60601-3218

847 294-4201  
312 520-6535 cell  
847 294-4246 fax



# Illinois Department of Revenue

## Sales Tax Audit System Schedule 2-B Penalty Computation

Date: 05/27/2011  
Time: 10:16:52  
Page: 1

Taxpayer: JAYKO ENTERPRISES LLC IBT: 3860 1532 Audit Period: 01/01/2006 through 09/30/2010  
Tax Type: ROT Interest Thru Date: 05/27/2011

Auditor: Anamaria L. Colon

### Late Filing

Filing Period	Tax Amount	Rate	Penalty		Interest		Total
			Amount	Rate	Amount	Rate	
01/2006	\$1,267.33	4.00%	\$50.69	0.00%	\$0.00	\$0.00	\$50.69
02/2006	\$1,350.90	4.00%	\$54.04	0.00%	\$0.00	\$0.00	\$54.04
03/2006	\$1,481.22	4.00%	\$59.25	0.00%	\$0.00	\$0.00	\$59.25
04/2006	\$1,467.57	4.00%	\$58.70	0.00%	\$0.00	\$0.00	\$58.70
05/2006	\$1,418.75	4.00%	\$56.75	0.00%	\$0.00	\$0.00	\$56.75
06/2006	\$1,758.95	4.00%	\$70.36	0.00%	\$0.00	\$0.00	\$70.36
07/2006	\$1,585.23	4.00%	\$63.41	0.00%	\$0.00	\$0.00	\$63.41
08/2006	\$1,687.15	4.00%	\$67.49	0.00%	\$0.00	\$0.00	\$67.49
09/2006	\$1,445.72	4.00%	\$57.83	0.00%	\$0.00	\$0.00	\$57.83
10/2006	\$1,484.45	4.00%	\$59.38	0.00%	\$0.00	\$0.00	\$59.38
11/2006	\$1,469.17	4.00%	\$58.77	0.00%	\$0.00	\$0.00	\$58.77
12/2006	\$1,276.67	4.00%	\$51.07	0.00%	\$0.00	\$0.00	\$51.07
01/2007	\$1,634.32	4.00%	\$65.37	0.00%	\$0.00	\$0.00	\$65.37
02/2007	\$1,615.00	4.00%	\$64.60	0.00%	\$0.00	\$0.00	\$64.60
03/2007	\$1,608.79	4.00%	\$64.35	0.00%	\$0.00	\$0.00	\$64.35
04/2007	\$1,775.94	4.00%	\$71.04	0.00%	\$0.00	\$0.00	\$71.04
05/2007	\$1,718.76	4.00%	\$68.75	0.00%	\$0.00	\$0.00	\$68.75
06/2007	\$1,374.75	4.00%	\$54.99	0.00%	\$0.00	\$0.00	\$54.99
07/2007	\$1,725.80	4.00%	\$69.03	0.00%	\$0.00	\$0.00	\$69.03
08/2007	\$1,522.96	4.00%	\$60.92	0.00%	\$0.00	\$0.00	\$60.92
09/2007	\$1,359.43	4.00%	\$54.38	0.00%	\$0.00	\$0.00	\$54.38
10/2007	\$1,232.82	4.00%	\$49.31	0.00%	\$0.00	\$0.00	\$49.31
11/2007	\$1,229.37	4.00%	\$49.17	0.00%	\$0.00	\$0.00	\$49.17
12/2007	\$1,247.58	4.00%	\$49.90	0.00%	\$0.00	\$0.00	\$49.90
01/2008	\$2,183.77	4.00%	\$87.35	0.00%	\$0.00	\$0.00	\$87.35
02/2008	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42
03/2008	\$1,381.45	4.00%	\$55.26	0.00%	\$0.00	\$0.00	\$55.26
04/2008	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42
05/2008	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42
06/2008	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42
07/2008	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42
08/2008	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42
09/2008	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42
10/2008	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42
11/2008	\$1,091.64	4.00%	\$43.67	0.00%	\$0.00	\$0.00	\$43.67
12/2008	\$1,147.33	4.00%	\$45.89	0.00%	\$0.00	\$0.00	\$45.89
01/2009	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$0.00	\$42.42



**Illinois Department of Revenue**  
**Sales Tax Audit System**  
*Schedule 2-B Penalty Computation*

Date: 05/27/2011  
 Time: 10:16.52  
 Page: 2

Taxpayer: JAYKO ENTERPRISES LLC (BT 3860 1532) Audit Period: 01/01/2006 through 09/30/2010  
 Tax Type: RCT Interest Trm Date: 05/27/2011

Auditor: Anamaria L. Colon

**Late Filing (continued)**

<u>Filing Period</u>	<u>Tax Amount</u>	<u>Rate</u>	<u>Penalty</u>		<u>Interest</u>		<u>Total</u>
			<u>Amount</u>	<u>Rate</u>	<u>Amount</u>	<u>Amount</u>	
02/2009	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$42.42	
03/2009	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$42.42	
04/2009	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$42.42	
05/2009	\$1,060.39	4.00%	\$42.42	0.00%	\$0.00	\$42.42	
06/2009	\$1,187.89	4.00%	\$47.52	0.00%	\$0.00	\$47.52	
07/2009	\$1,060.39	2.00%	\$21.21	0.00%	\$0.00	\$21.21	
08/2009	\$1,060.39	2.00%	\$21.21	0.00%	\$0.00	\$21.21	
09/2009	\$1,060.39	2.00%	\$21.21	0.00%	\$0.00	\$21.21	
10/2009	\$1,060.39	2.00%	\$21.21	0.00%	\$0.00	\$21.21	
11/2009	\$1,060.39	2.00%	\$21.21	0.00%	\$0.00	\$21.21	
12/2009	\$1,136.53	2.00%	\$22.73	0.00%	\$0.00	\$22.73	
01/2010	\$659.23	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
02/2010	\$659.23	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
03/2010	\$659.23	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
04/2010	\$659.23	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
05/2010	\$659.23	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
06/2010	\$659.23	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
07/2010	\$659.23	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
08/2010	\$659.23	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
09/2010	\$658.92	2.00%	\$13.18	0.00%	\$0.00	\$13.18	
<b>Total Late Filing</b>	<b>\$68,887.02</b>		<b>\$2,508.10</b>		<b>\$0.00</b>	<b>\$2,508.10</b>	

**Late Payment**

<u>Filing Period</u>	<u>Tax Amount</u>	<u>Rate</u>	<u>Penalty</u>		<u>Interest</u>		<u>Total</u>
			<u>Amount</u>	<u>Rate</u>	<u>Amount</u>	<u>Amount</u>	
01/2006	\$1,267.33	30.00%	\$380.20	0.00%	\$0.00	\$380.20	
02/2006	\$1,350.90	30.00%	\$405.27	0.00%	\$0.00	\$405.27	
03/2006	\$1,481.22	30.00%	\$444.37	0.00%	\$0.00	\$444.37	
04/2006	\$1,467.57	30.00%	\$440.27	0.00%	\$0.00	\$440.27	
05/2006	\$1,418.75	30.00%	\$425.63	0.00%	\$0.00	\$425.63	
06/2006	\$1,758.95	30.00%	\$527.69	0.00%	\$0.00	\$527.69	
07/2006	\$1,585.23	30.00%	\$475.57	0.00%	\$0.00	\$475.57	
08/2006	\$1,687.15	30.00%	\$506.15	0.00%	\$0.00	\$506.15	
09/2006	\$1,445.72	30.00%	\$433.72	0.00%	\$0.00	\$433.72	
10/2006	\$1,484.45	30.00%	\$445.34	0.00%	\$0.00	\$445.34	
11/2006	\$1,469.17	30.00%	\$440.75	0.00%	\$0.00	\$440.75	
12/2006	\$1,276.67	30.00%	\$383.00	0.00%	\$0.00	\$383.00	



**Illinois Department of Revenue**  
**Sales Tax Audit System**  
*Schedule 2-B Penalty Computation*

Date 05/27/2011  
 Time 10:16:52  
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Taxpayer JAYKO ENTERPRISES LLC IBT 3860-1532 Audit Period 01/01/2006 through 09/30/2010  
 Tax Type ROI Interest Thru Date 05/27/2011

Auditor Anamaria L. Colon

**Late Payment (continued)**

<u>Filing Period</u>	<u>Tax Amount</u>	<u>Rate</u>	<u>Penalty</u>		<u>Interest</u>		<u>Total</u>
			<u>Amount</u>	<u>Rate</u>	<u>Amount</u>	<u>Rate</u>	
01/2007	\$1,634.32	30.00%	\$490.30	0.00%	\$0.00	\$0.00	\$490.30
02/2007	\$1,615.00	30.00%	\$484.50	0.00%	\$0.00	\$0.00	\$484.50
03/2007	\$1,608.79	30.00%	\$482.64	0.00%	\$0.00	\$0.00	\$482.64
04/2007	\$1,775.94	30.00%	\$532.78	0.00%	\$0.00	\$0.00	\$532.78
05/2007	\$1,718.76	30.00%	\$515.63	0.00%	\$0.00	\$0.00	\$515.63
06/2007	\$1,374.75	30.00%	\$412.43	0.00%	\$0.00	\$0.00	\$412.43
07/2007	\$1,725.80	30.00%	\$517.74	0.00%	\$0.00	\$0.00	\$517.74
08/2007	\$1,522.96	30.00%	\$456.89	0.00%	\$0.00	\$0.00	\$456.89
09/2007	\$1,359.43	30.00%	\$407.83	0.00%	\$0.00	\$0.00	\$407.83
10/2007	\$1,232.82	30.00%	\$369.85	0.00%	\$0.00	\$0.00	\$369.85
11/2007	\$1,229.37	30.00%	\$368.81	0.00%	\$0.00	\$0.00	\$368.81
12/2007	\$1,247.58	30.00%	\$374.27	0.00%	\$0.00	\$0.00	\$374.27
01/2008	\$2,183.77	30.00%	\$655.13	0.00%	\$0.00	\$0.00	\$655.13
02/2008	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
03/2008	\$1,381.45	30.00%	\$414.43	0.00%	\$0.00	\$0.00	\$414.43
04/2008	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
05/2008	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
06/2008	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
07/2008	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
08/2008	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
09/2008	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
10/2008	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
11/2008	\$1,091.64	30.00%	\$327.49	0.00%	\$0.00	\$0.00	\$327.49
12/2008	\$1,147.33	30.00%	\$344.20	0.00%	\$0.00	\$0.00	\$344.20
01/2009	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
02/2009	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
03/2009	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
04/2009	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
05/2009	\$1,060.39	30.00%	\$318.12	0.00%	\$0.00	\$0.00	\$318.12
06/2009	\$1,187.89	30.00%	\$356.37	0.00%	\$0.00	\$0.00	\$356.37
07/2009	\$1,060.39	15.00%	\$159.06	0.00%	\$0.00	\$0.00	\$159.06
08/2009	\$1,060.39	15.00%	\$159.06	0.00%	\$0.00	\$0.00	\$159.06
09/2009	\$1,060.39	15.00%	\$159.06	0.00%	\$0.00	\$0.00	\$159.06
10/2009	\$1,060.39	15.00%	\$159.06	0.00%	\$0.00	\$0.00	\$159.06
11/2009	\$1,060.39	15.00%	\$159.06	0.00%	\$0.00	\$0.00	\$159.06
12/2009	\$1,136.53	15.00%	\$170.48	0.00%	\$0.00	\$0.00	\$170.48
01/2011	\$659.23	15.00%	\$98.88	0.00%	\$0.00	\$0.00	\$98.88



# Illinois Department of Revenue

## Sales Tax Audit System

### Schedule 2-B Penalty Computation

Date: 05/27/2011

Time: 10:16:52

Page: 4

Taxpayer: JAYKO ENTERPRISES LLC IBT 3860 1532 Audit Period: 01/01/2006 through 09/30/2010

Auditor: Anamaria L. Colon

Tax Type: ROT Interest Thru Date: 05/27/2011

#### Late Payment (continued)

<u>Filing Period</u>	<u>Tax Amount</u>	<u>Rate</u>	<u>Penalty</u>		<u>Interest</u>		<u>Total</u>
			<u>Amount</u>	<u>Rate</u>	<u>Amount</u>	<u>Amount</u>	
02/2010	\$659.23	15.00%	\$98.88	0.00%	\$0.00	\$98.88	
03/2010	\$659.23	15.00%	\$98.88	0.00%	\$0.00	\$98.88	
04/2010	\$659.23	15.00%	\$98.88	0.00%	\$0.00	\$98.88	
05/2010	\$659.23	15.00%	\$98.88	0.00%	\$0.00	\$98.88	
06/2010	\$659.23	15.00%	\$98.88	0.00%	\$0.00	\$98.88	
07/2010	\$659.23	15.00%	\$98.88	0.00%	\$0.00	\$98.88	
08/2010	\$659.23	15.00%	\$98.88	0.00%	\$0.00	\$98.88	
09/2010	\$658.92	15.00%	\$98.84	0.00%	\$0.00	\$98.84	
<b>Total Late Payment</b>	<b>\$68,887.02</b>		<b>\$18,810.47</b>		<b>\$0.00</b>	<b>\$18,810.47</b>	

#### Negligence

This penalty was not assessed for any periods.

#### Fraud

This penalty was not assessed for any periods.

	<u>Penalty</u>	<u>Interest</u>	<u>Total</u>
<b>Grand Total</b>	<b>\$21,318.57</b>	<b>\$0.00</b>	<b>\$21,318.57</b>



**Illinois Department of Revenue**  
**Sales Tax Audit System**  
*Schedule 2-A Interest Computation*

Date 05/27/2011  
 Time 10:15:16  
 Page 1

Taxpayer JAYKO ENTERPRISES LLC IBT 3860-1532 Audit Period 01/01/2006 through 09/30/2010  
 Tax Type RO1 Interest Thru Date: 05/27/2011 Detail Liability \$13,765.13 Average Liability \$55,121.85

Auditor Anamaria L. Colon

<u>Month</u>	<u>Detail Liability</u>	<u>Average Liability</u>	<u>Prepayment</u>	<u>Total Liability</u>	<u>Rate</u>	<u>Interest</u>
01/2006	\$278.17	\$989.16	\$0.00	\$1,267.33	54.4828	\$690.47
02/2006	\$361.74	\$989.16	\$0.00	\$1,350.90	53.4088	\$721.50
03/2006	\$492.06	\$989.16	\$0.00	\$1,481.22	52.2198	\$773.48
04/2006	\$478.41	\$989.16	\$0.00	\$1,467.57	51.0691	\$749.48
05/2006	\$429.59	\$989.16	\$0.00	\$1,418.75	49.8801	\$707.67
06/2006	\$769.79	\$989.16	\$0.00	\$1,758.95	48.6198	\$855.20
07/2006	\$596.07	\$989.16	\$0.00	\$1,585.23	47.2609	\$749.20
08/2006	\$697.99	\$989.16	\$0.00	\$1,687.15	45.9020	\$774.43
09/2006	\$456.56	\$989.16	\$0.00	\$1,445.72	44.5869	\$644.61
10/2006	\$495.29	\$989.16	\$0.00	\$1,484.45	43.2280	\$641.70
11/2006	\$480.01	\$989.16	\$0.00	\$1,469.17	41.9129	\$615.77
12/2006	\$287.51	\$989.16	\$0.00	\$1,276.67	40.5540	\$517.74
01/2007	\$645.16	\$989.16	\$0.00	\$1,634.32	39.1951	\$640.57
02/2007	\$625.84	\$989.16	\$0.00	\$1,615.00	37.9677	\$613.19
03/2007	\$619.63	\$989.16	\$0.00	\$1,608.79	36.6087	\$588.96
04/2007	\$786.78	\$989.16	\$0.00	\$1,775.94	35.2937	\$626.79
05/2007	\$729.60	\$989.16	\$0.00	\$1,718.76	33.9347	\$583.26
06/2007	\$385.59	\$989.16	\$0.00	\$1,374.75	32.6196	\$448.44
07/2007	\$736.64	\$989.16	\$0.00	\$1,725.80	31.2606	\$539.50
08/2007	\$533.80	\$989.16	\$0.00	\$1,522.96	29.9017	\$455.40
09/2007	\$370.27	\$989.16	\$0.00	\$1,359.43	28.5655	\$388.60
10/2007	\$243.66	\$989.16	\$0.00	\$1,232.82	27.2276	\$335.66
11/2007	\$240.21	\$989.16	\$0.00	\$1,229.37	25.9124	\$318.56
12/2007	\$258.38	\$989.20	\$0.00	\$1,247.58	24.6630	\$307.69
01/2008	\$1,123.38	\$1,060.39	\$0.00	\$2,183.77	23.4739	\$512.61
02/2008	\$0.00	\$1,060.39	\$0.00	\$1,060.39	22.3616	\$237.12
03/2008	\$321.06	\$1,060.39	\$0.00	\$1,381.45	21.1725	\$292.50
04/2008	\$0.00	\$1,060.39	\$0.00	\$1,060.39	20.0217	\$212.31
05/2008	\$0.00	\$1,060.39	\$0.00	\$1,060.39	18.8326	\$199.70
06/2008	\$0.00	\$1,060.39	\$0.00	\$1,060.39	17.9011	\$189.82
07/2008	\$0.00	\$1,060.39	\$0.00	\$1,060.39	17.0518	\$180.82
08/2008	\$0.00	\$1,060.39	\$0.00	\$1,060.39	16.2026	\$171.81
09/2008	\$0.00	\$1,060.39	\$0.00	\$1,060.39	15.3807	\$163.09
10/2008	\$0.00	\$1,060.39	\$0.00	\$1,060.39	14.5314	\$154.09
11/2008	\$31.25	\$1,060.39	\$0.00	\$1,091.64	13.7095	\$149.65
12/2008	\$86.94	\$1,060.39	\$0.00	\$1,147.33	12.8603	\$147.55
01/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	12.0110	\$127.35
02/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	11.2439	\$119.23
03/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	10.3946	\$110.22



# Illinois Department of Revenue

## Sales Tax Audit System

### Schedule 2-A Interest Computation

Date: 05/27/2011

Time: 10:15:17

Page: 2

Taxpayer: JAYKO ENTERPRISES LLC IBT: 3860-1532 Audit Period: 01/01/2006 through 09/30/2010  
Tax Type: RO1 Interest Thru Date: 05/27/2011 Detail Liability: \$13,765.13 Average Liability: \$55,121.89

Auditor: Anamaria L. Colon

Month	Detail Liability	Average Liability	Prepayment	Total Liability	Rate	Interest
04/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	9.5727	\$101.51
05/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	8.7235	\$92.50
06/2009	\$127.50	\$1,060.39	\$0.00	\$1,187.89	8.0111	\$95.15
07/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	3.6658	\$38.88
08/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	3.3261	\$35.27
09/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	2.9973	\$31.78
10/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	2.6576	\$28.18
11/2009	\$0.00	\$1,060.39	\$0.00	\$1,060.39	2.3288	\$24.70
12/2009	\$76.25	\$1,060.28	\$0.00	\$1,136.53	1.9891	\$22.61
01/2010	\$0.00	\$659.23	\$0.00	\$659.23	1.6494	\$10.88
02/2010	\$0.00	\$659.23	\$0.00	\$659.23	1.3425	\$8.85
03/2010	\$0.00	\$659.23	\$0.00	\$659.23	1.0028	\$6.61
04/2010	\$0.00	\$659.23	\$0.00	\$659.23	0.6740	\$4.44
05/2010	\$0.00	\$659.23	\$0.00	\$659.23	0.5316	\$3.51
06/2010	\$0.00	\$659.23	\$0.00	\$659.23	0.4494	\$2.97
07/2010	\$0.00	\$659.23	\$0.00	\$659.23	0.3644	\$2.40
08/2010	\$0.00	\$659.23	\$0.00	\$659.23	0.2795	\$1.84
09/2010	\$0.00	\$658.92	\$0.00	\$658.92	0.1973	\$1.30
<b>Total:</b>	<b>\$13,765.13</b>	<b>\$55,121.89</b>	<b>\$0.00</b>	<b>\$68,887.02</b>		<b>\$17,769.13</b>

Interest increased due to amnesty

# Taxpayer Statement



November 2, 2011



Letter ID: L0449828992

JAYKO ENTERPRISES LLC  
800 BACH CT  
WOODSTOCK IL 60098-8054

Taxpayer ID: 20-3474612  
Total amount due: \$73,126.57



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

## ST-1 Sales and Use Taxes

Account ID: 3860-1532

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	35,399.00	15,676.00	11,897.23	-	-	62,972.23
30-Jun-2010	6,648.00	1,563.00	244.74	-	-	8,455.74
31-Jul-2010	436.00	126.00	5.63	-	-	567.63
31-Aug-2010	436.00	126.00	4.52	-	-	566.52
30-Sep-2010	436.00	125.00	2.45	-	-	564.45

50C

Retain this portion for your records.

P-000429

Fold and detach on perforation. Return bottom portion with your payment.

## Taxpayer Statement (R-12/08) (136)



Letter ID: L0449828992  
JAYKO ENTERPRISES LLC

Total amount due: \$73,126.57

Write the amount you are paying below.

Mail this voucher and your payment to:  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19035  
SPRINGFIELD IL 62794-9035

\$ \_\_\_\_\_  
Write your Taxpayer ID on your check

000 006 008213853442 731 123199 00 0000007312657

**Collection Action**  
**Notice of Intent**



November 16, 2011



Letter ID: L0868700288

Taxpayer ID: 20-3474612

JAYKO ENTERPRISES LLC  
ATTN: JASON SZMURLO 361-68-6832  
800 BACH CT  
WOODSTOCK IL 60098-8054

JAYKO ENTERPRISES LLC  
800 BACH CT  
WOODSTOCK, IL 60098-8054

**You have been identified as a responsible  
officer, partner, or individual of JAYKO ENTERPRISES LLC .**

Illinois law provides that we may hold you personally liable for a penalty equal to the total tax, penalty, and interest due from JAYKO ENTERPRISES LLC .

The following pages detail the current amount of debt we are pursuing against JAYKO ENTERPRISES LLC . This debt must be paid immediately. Your payment must be guaranteed (i.e. cashier's check, money order) and made payable to the Illinois Department of Revenue. Send or bring it to us at the address below.

If this debt is not paid, we intend to issue a penalty against you for the full amount of the debt. Once the penalty becomes final, we can take further collection action against you personally which may include the seizure and sale of your assets and levy of your wages and bank accounts.

If you believe you are not personally responsible for this debt, send us written proof within 10 days. If the information you submit is insufficient, we may continue to issue the penalty.

If you have any questions, please write or call our office weekdays from 8:30 a.m. to 4:30 p.m.

RICHARD DODEN  
ILLINOIS DEPARTMENT OF REVENUE  
200 S WYMAN ST  
# 306  
ROCKFORD, IL 61101-1234

815 987-5227  
815 987-7474 fax

**For information about**

- › how to pay
- › submitting proof
- › what you owe
- › collection actions

**Turn page**

## To avoid this collection action

### *Pay*

Your payment must be guaranteed (*i.e.* cashier's check, money order) and made payable to the Illinois Department of Revenue

### *If you believe you are not personally responsible, send us proof*

Send us written proof, documents, or testimony for review. You may provide one or all of the following:

- copies of notarized resignation papers
- corporate minutes where your resignation was accepted
- copy of signed agreement to transfer stocks and bonds to another party.
- a notarized affidavit from someone whom we recognize as knowledgeable of the business' operation stating that you were not responsible for filing returns and paying taxes.
- the name of the person who was responsible for filing returns and paying taxes

## Collection action information

### *Applicable Illinois law*

Illinois law (35 ILCS 735/3-7 of the Retailers' Occupation Tax Act) provides that any person who has control, supervision, or responsibility of filing returns or making payments for a taxpayer, and who willfully fails to do so, shall be personally liable for a penalty. The penalty is equal to the amount of tax due including penalty and interest.

More information is on our website at [tax.illinois.gov](http://tax.illinois.gov)

### *Federal Bankruptcy Court*

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

### *Correct our records*

If our records are not correct, send us proof of your prior payment, a copy of the return you filed, or other documentation so that we can correct our records.

### *What other collection actions may we take?*

Additional collection action includes, but is not limited to:

- levy of wages and bank accounts
- withholding of your state payments, tax refunds, lottery winnings, contractual service vouchers, etc.
- seizure and sale of your assets.
- referral to a collection agency
- civil judgments
- referral for non-renewal or revocation of your
  - Professional license,
  - Certificate of Registration,
  - Liquor license,
  - Corporate Charter with the Secretary of State, or
  - Lottery license
- prosecution for bad checks and deceptive practice
- filing a tax lien against your property (the filing of a lien may damage your credit rating for up to seven years, even after the lien is released). If we file a lien against your property, you are responsible for paying the lien filing and release fees and charges.

**Collection Action**  
**Notice of Intent**

*ATTN Kris*  
*From Jason Samello*



November 16, 2011



Letter ID: CNXXXX3X44X15368

Taxpayer ID: 20-3474612

\_\_\_\_\_  
#BWNKMGV  
#CNXX XX3X 44X1 5368#  
JAYKO ENTERPRISFS LLC  
800 BACH CT  
\_\_\_\_\_  
WOODSTOCK IL 60098-8054



**We intend to issue a levy against your assets  
unless you pay us.**

We have not received all of your required payments. The following pages detail the items you need to pay by December 7, 2011. If you do not, we intend to issue a levy for this amount against your assets without further notice to you.

A levy means we can, by legal authority, take your assets held by someone else. Examples of assets we may levy include your wages, contractual payments, bank accounts, and accounts receivables.

If you have any questions about this notice, please contact us immediately at the address and phone number listed below.

RICHARD DODEN  
ILLINOIS DEPARTMENT OF REVENUE  
200 S WYMAN ST  
# 306  
ROCKFORD IL 61101-1234

815 987-5227  
815 987-7474 fax

**For information about**  
› how to pay  
› what you owe  
› collection actions

**Turn page**

# To avoid this collection action

## *New Pay and File Option*

We encourage all taxpayers to file electronically whenever possible. Illinois taxpayers can electronically file and pay certain business and individual taxes on-line at no charge. For more information and instructions, visit our e-Services site at [tax.illinois.gov](http://tax.illinois.gov)

## *Pay*

To pay, you may pay electronically or use one of the following options:

- 1) Pay us using the "check by phone" method by calling us at the phone number on the front of this letter. You will need your check number, account number, and bank routing number, and we will prepare a check to submit to your financial institution.
- 2) Mail us your payment in the enclosed envelope. Your payment should be guaranteed (i.e. cashier's check, money order) and made payable to the Illinois Department of Revenue.
- 3) If you cannot pay the entire amount you owe at this time, you may be considered for an installment payment plan. You must apply for a payment plan on Form CPP-1, Installment Plan Request. Go to [tax.illinois.gov](http://tax.illinois.gov), or call or write us for forms or more information. We will let you know if your request is approved.

## *Federal Bankruptcy Court*

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

## *File Returns and Pay*

To file any returns listed in this letter, you must file electronically or send us your completed returns in the enclosed envelope. You must also pay us any amount due on these returns.

## *Correct our records*

If our records are not correct, send us proof of your prior payment, a copy of the return you filed, or other documentation so that we can correct our records.

# Legal information about levies

35 ILCS 5/1109 of the Income Tax Act and 35 ILCS 120/5f of the Retailers' Occupation Tax Act authorize this levy. 735 ILCS 5/12-803 of the Code of Civil Procedure and federal law (15 U.S.C. 1673) define "maximum wages subject to collection." More information is on our website [tax.illinois.gov](http://tax.illinois.gov)

# Rights and Responsibilities - Taxpayer's 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 our notices by asking questions, paying the amount due, or providing proof to refute our findings.
- You have the right to appeal our decisions in many instances within specified time periods by asking for our 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 within certain time periods.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520

**Collection Action**  
**Notice of Intent**



November 16, 2011



Letter ID: CNXXXX1X4X3328X5

\_\_\_\_\_  
#BWNKMGV  
#CNXX XX1X 4X33 28X5#  
JAYKO ENTERPRISES LLC  
800 BACH CT  
WOODSTOCK IL 60098-8054

Taxpayer ID: 20-3474612



**Act now.**

We have not received all of your required payments

Send us the items listed on the following pages immediately

If you do not, we may take collection action **without** further notice to you. Collection action may include levy of your wages or seizure and sale of your assets

If you have any questions about this notice, you may contact us at the address and phone number listed below.

RICHARD DODEN  
ILLINOIS DEPARTMENT OF REVENUE  
200 S WYMAN ST  
# 306  
ROCKFORD, IL 61101-1234

815 987-5227  
815 987-7474 fax

**For information about**

- › how to pay
- › how to file
- › collection actions

**Turn page**

# To avoid collection action

## *New Pay and File Option*

We encourage all taxpayers to file electronically whenever possible. Illinois taxpayers can electronically file and pay certain business and individual taxes on-line at no charge. For more information and instructions, visit our e-Services site at [tax.illinois.gov](http://tax.illinois.gov).

## *Pay*

To pay, you may pay electronically or use one of the following options:

- 1) Pay us using the "check by phone" method by calling us at the phone number on the front of this letter. You will need your check number, account number, and bank routing number, and we will prepare a check to submit to your financial institution.
- 2) Mail us your payment in the enclosed envelope. Your payment should be guaranteed (*i.e.* cashier's check, money order) and made payable to the Illinois Department of Revenue.
- 3) If you cannot pay the entire amount you owe at this time, you may be considered for an installment payment plan. You must apply for a payment plan on Form CPP-1 Installment Plan Request. Go to [tax.illinois.gov](http://tax.illinois.gov), or call or write us for forms or more information. We will let you know if your request is approved.

## *File Returns and Pay*

To file any returns listed in this letter, you must file electronically or send us your completed returns in the enclosed envelope. You must also pay us any amount due on these returns.

## *Correct our records*

If our records are not correct, send us proof of your prior payment, a copy of the return you filed, or other documentation so that we can correct our records.

## *Federal Bankruptcy Court*

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

## *What collection actions may we take?*

Collection actions we may take include, but are not limited to:

- levy of wages and bank accounts
- withholding of your state payments, tax refunds, lottery winnings, contractual service vouchers, etc.
- seizure and sale of your assets
- referral to a collection agency
- civil judgments
- referral for non-renewal or revocation of your
  - Professional license,
  - Certificate of Registration,
  - Liquor license,
  - Corporate Charter with the Secretary of State, or
  - Lottery license.
- prosecution for bad checks and deceptive practice
- filing a tax lien against your property (the filing of a lien may damage your credit rating for up to seven years, even after the lien is released). If we file a lien against your property, you are responsible for paying the lien filing and release fees and charges.

# Taxpayer Statement



November 16, 2011



Letter ID: L1490197632

Taxpayer ID: 20-3474612

Total amount due: \$73,247.39

JAYKO ENTERPRISES LLC  
800 BACH CT  
WOODSTOCK IL 60098-8054



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

## ST-1 Sales and Use Taxes

Account ID: 3860-1532

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	35,399.00	15,676.00	12,005.87	-	-	63,080.87
30-Jun-2010	6,648.00	1,563.00	254.94	-	-	8,465.94
31-Jul-2010	436.00	126.00	6.29	-	-	568.29
31-Aug-2010	436.00	126.00	5.18	-	-	567.18
30-Sep-2010	436.00	126.00	3.11	-	-	565.11
31-Oct-2010	-	-	-	-	-	Not Included*
* File and pay this return	2,231.70	-	-	-	-	-
30-Nov-2010	-	-	-	-	-	Not Included*
* File and pay this return	-	-	-	-	-	-
31-Dec-2010	-	-	-	-	-	Not Included*
* File and pay this return	-	-	-	-	-	-
31-Jan-2011	-	-	-	-	-	Not Included*
* File and pay this return	-	-	-	-	-	-

30C

Statement continues on the following page(s):

Retain this portion for your records

P-000406

Fold and detach on perforation. Return bottom portion with your payment

**Taxpayer Statement** (R-12/08) (136)



Letter ID: L1490197632  
JAYKO ENTERPRISES LLC

Total amount due: \$73,247.39

Write the amount you are paying below.

Mail this voucher and your payment to:  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19035  
SPRINGFIELD IL 62794-9035

\$ \_\_\_\_\_

Write your Taxpayer ID on your check

000 006 004310672640 731 123199 5 0000007324739

# Taxpayer Statement

November 16, 2011

## ST-1 Sales and Use Taxes

Account ID: 3860-1532

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
28-Feb-2011	-	-	-	-	-	Not Included*
* File and pay this return						
31-Mar-2011	-	-	-	-	-	Not Included*
* File and pay this return						
30-Apr-2011	-	-	-	-	-	Not Included*
* File and pay this return						
31-May-2011	-	-	-	-	-	Not Included*
* File and pay this return						
30-Jun-2011	-	-	-	-	-	Not Included*
* File and pay this return						
31-Jul-2011	-	-	-	-	-	Not Included*
* File and pay this return						
31-Aug-2011	-	-	-	-	-	Not Included*
* File and pay this return						

000

# Taxpayer Statement



November 16, 2011



Letter ID: L0953326720

JAYKO ENTERPRISES LLC  
ATTN: JASON SZMURLO 361-68-6832  
800 BACH CT  
WOODSTOCK IL 60098-8054

Taxpayer ID: 20-3474612

Total amount due: \$73,247.39

This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

## ST-1 Sales and Use Taxes

Account ID: 3860-1532

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	35,399.00	15,676.00	12,005.87	-	-	63,080.87
30-Jun-2010	6,648.00	1,563.00	254.94	-	-	8,465.94
31-Jul-2010	436.00	126.00	6.29	-	-	568.29
31-Aug-2010	436.00	126.00	5.18	-	-	567.18
30-Sep-2010	436.00	126.00	3.11	-	-	565.11
31-Oct-2010	-	-	-	-	-	Not Included*
* File and pay this return						
30-Nov-2010	-	-	-	-	-	Not Included*
* File and pay this return						
31-Dec-2010	-	-	-	-	-	Not Included*
* File and pay this return						
31-Jan-2011	-	-	-	-	-	Not Included*
* File and pay this return						

SOC

Statement continues on the following page(s)

Retain this portion for your records

P-000453

Fold and detach on perforation. Return bottom portion with your payment

## Taxpayer Statement (R-12/08) (136)



Letter ID L0953326720  
JAYKO ENTERPRISES LLC

Total amount due: \$73,247.39

Write the amount you are paying below

Mail this voucher and your payment to:  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19035  
SPRINGFIELD IL 62794-9035

\$ \_\_\_\_\_

Write your Taxpayer ID on your check

000 006 015048090880 731 123199 4 0000007324739

# Taxpayer Statement

November 16 2011

## ST-1 Sales and Use Taxes

Account ID: 3860-1532

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
28-Feb-2011 * File and pay this return	-	-	-	-	-	Not Included*
31-Mar-2011 * File and pay this return	-	-	-	-	-	Not Included*
30-Apr-2011 * File and pay this return	-	-	-	-	-	Not Included*
31-May-2011 * File and pay this return	-	-	-	-	-	Not Included*
30-Jun-2011 * File and pay this return	-	-	-	-	-	Not Included*
31-Jul-2011 * File and pay this return	-	-	-	-	-	Not Included*
31-Aug-2011 * File and pay this return	-	-	-	-	-	Not Included*

SOC



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

July 17, 2015

Adrienne W. Chan  
Stevens & Associates  
200 West Superior Street, Suite 410  
Chicago, IL 60654

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**  
Jason Szmurlo  
Notice of Penalty Liability (NPL)  
NPL Penalty ID: 1420546  
Letter ID: L1831354528, dated August 13, 2012

Dear Ms. Chan:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing for Jason Szmurlo for the above NPL. Based on the information provided in your request, I believe that it is appropriate to grant your request for a late discretionary hearing for Jason Szmurlo regarding the above NPL.

The amount of liability at issue for this protest exceeds the statutory amount (\$15,000, exclusive of penalties and interest or \$15,000 for notices that involve only penalties and interest) for which the Department has jurisdiction for late discretionary hearings that are granted on or after January 1, 2014. For late discretionary hearings that are granted on or after January 1, 2014 and that exceed the statutory amount, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.*

The Tax Tribunal's website ([www.illinois.gov/taxtribunal](http://www.illinois.gov/taxtribunal)) contains rules that include guidance on filing requirements and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that, when a late discretionary hearing is granted and the protest meets the statutory amount, the taxpayer shall file a petition with the**

**Tax Tribunal within 60 days and shall attach a copy of the letter granting the late discretionary hearing.** See Subsection (a)(5) of Section 5000.310 of the Tax Tribunal's rules. Please note that the Tax Tribunal has different requirements than the Department for filing protests, including the payment of filing fees and the filing of a petition in the form required by the Tax Tribunal.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Charlton". The signature is written in a cursive style with a large initial "T".

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

TDC



SCHEDULE 1

On Nov 1, 2014, at 4:08 AM, Laura Siebert <[LSiebert@careered.com](mailto:LSiebert@careered.com)> wrote:

Hi Jason,

Below is Chef Kirk Bachmann's opinion.

**From:** Kirk Bachmann [<mailto:beabmann@live.com>]

**Sent:** Friday, October 31, 2014 12:58 PM

**To:** Laura Siebert

**Subject:** RE: Opinion Letter

Hello Laura:

So my personal feeling is that this is an essential item. Smoking and preserving meats is the reason we are all here as our ancestors did this to survive. While our preservation methods have advanced greatly in recent decades you do not know when this may be needed again. Chefs I work with recently made several hams, all of which were cured and cooked. The only one that went bad was the one we didn't smoke! Hence, I couldn't agree more, hardwood smoke is essential for flavor and preservation of many dishes (liquid smoke just can't compete). These days we are even seeing things other than hardwood being used to promote the smokey flavor (ie smoking with fresh hay). Some might debate the ecological impact of using our trees and production of smoke, the possibility of carcinogens, its importance in human history, the tradition of it, how American BBQ is important to our culture, and how it compares to other food issues, etc.. The conclusion is that the benefits outweigh the impacts of this practice.

Kirk T Bachmann

"Win the Day"

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From: [LSiebert@careered.com](mailto:LSiebert@careered.com)  
To: [beabmann@live.com](mailto:beabmann@live.com)  
Subject: RE: Opinion Letter  
Date: Fri, 31 Oct 2014 15:47:51 +0000

**Opinion letter:**

[Date]

To whom it may concern:

I am a professional chef, having been certified as a Chef, and with positions at \_Le Cordon Bleu Schools North America \_\_, \_\_\_\_, and \_\_\_\_.

I have been asked to provide an opinion on the use of wood to produce smoke as a method of flavoring foods.

It has been long accepted, and a long-standing practice among professional chefs, to use hardwood to create smoke to flavor and preserve foods. For many types of preparation smoke is an essential element that cannot be omitted (by example, American barbeque, cold-smoked Italian cheeses, preparation of oily fish such as salmon, etc.). The wood is entirely consumed in the process, with minimal ash to dispose (not unlike remnants of any other ingredients used in food production). In my opinion, the use of hardwood is as an ingredient and as an indispensable item in many preparation methods.

Please contact me should you have any questions.

Sincerely,

Chef Kirk T. Bachmann , CEC, AAC



# LE CORDON BLEU.

## President, Le Cordon Bleu College of Culinary Arts in Chicago – Chef Kirk T. Bachmann

### Chef Kirk T. Bachmann, C.E.C., M.Ed., AAC

President, Le Cordon Bleu College of Culinary Arts in Chicago



Chef Kirk T. Bachmann, President of Le Cordon Bleu College of Culinary Arts in Chicago, is a fourth generation chef. He began his culinary career at a very young age in the pastry kitchen of his father, a master pastry chef, trained in Germany. As a young teen, Chef Bachmann spent much time training at the Hotel Waldschaenke; a resort in Northern Germany owned and operated by his uncle, also a classically trained chef. After graduating from the University of Oregon, with an honors degree in International Studies, Chef Bachmann went on to receive his formal culinary training at the Le Cordon Bleu College of Culinary Arts in Portland, (formerly known as Western Culinary Institute). Later, Chef Bachmann earned his Master's in Education from American InterContinental University.

Bachmann honed his front-of-the-house skills while working with acclaimed Portland, Oregon Chef Xavier Bauser at the world-class, Mobile 5-Star, Benson Hotel in Portland. Chef Bachmann then owned and operated his own restaurant in Colorado where he earned restaurant of the year accolades in 1990. Chef Bachmann is a Certified Executive Chef through the American Culinary Federation as well as a Competition Medalist. He is also a member of the

International Association of Culinary Professionals. In 1992, Bachmann was chosen for Citation's "Who's Who Among Rising Young Americans". He has also cooked for Heads of State and Celebrities.

After a culinary career that began more than 20 years earlier, Chef Bachmann returned to Le Cordon Bleu College of Culinary Arts in Portland in 1995 as a Chef Instructor. While at the school, Chef Bachmann was instrumental in the implementation of the Le Cordon Bleu Culinary program. In January of 2000, Chef Bachmann accepted the position of Education Director for Le Cordon Bleu in North America and with it the responsibility of maintaining the standards and quality of the Le Cordon Bleu program.

For the past several years, Chef Bachmann held the position of Vice President of Academic Affairs for Le Cordon Bleu in North America, where he oversaw curriculum for the brand, employer relations and career services. He has also been instrumental in the implementation of the Le Cordon Bleu Pâtisserie and Baking, Hospitality & Restaurant Management, and Online training programs, and helped establish the Le Cordon Bleu National Employer Advisory Board (NEAB).

Today, Chef Bachmann is President of Le Cordon Bleu College of Culinary Arts in Chicago doing what he loves most — sharing his passion for cooking by leading instructors, and returning to the classroom to help students on their journey to becoming culinarians.

*(Through a partnership formed between Le Cordon Bleu International, Paris, and Career Education Corporation, the world's largest provider of quality culinary education, the culinary schools of Career Education Corporation have the exclusive rights to offer the prestigious Le Cordon Bleu Culinary program.)*

#### **Associations and Honors**

##### **American Culinary Federation**

- Certified Executive Chef
- The American Academy of Chefs
- Culinary Competition Medalist
- Certification Commission Member
- Foodservice Educators Learning Community Board Member

##### **International Association of Culinary Professionals (IACP)**

- Certified Culinary Professional
- Chair, Chefs, Restaurateurs & Sommeliers Committee
- Board Nominating Committee

##### **Food Educators Network International (FENI)**

- Educator of the Year, 2005

##### **Citation's**

- Who's Who Among Rising Young Americans, 1992

##### **Les Amis d'Escoffier Society**

##### **Chaîne des Rôtisseurs**

##### **Verband der Koeche Deutschlands** (German Chefs Association)

##### **American Institute of Wine and Food (AIWF)**

##### **Chef Educator Today**

- Editorial Advisory Board Member

##### **Inducted into the International Food and Beverage Forum (IFBF), Hall of Fame Society**

- In Association with the World Gourmet Club