IN THE ILLINOIS INDENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

SYED QAUYYUM AND ASMA HUMAIRA,	)	
	)	
Petitioners,	)	
	)	
v.	)	No.
	)	
ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Defendant.	)	

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PETITION

Petitioners, Syed Qauyyum and Asma Humaira ("Petitioners"), by and through their attorneys, The Law Office of James E. Dickett, Ltd., complain of the Defendant, the Illinois Department of Revenue ("Department"), and alleges as follows:

PARTIES

1. Petitioners are individuals located at 2961 Langston Circle, Saint Charles, Illinois, 60175, and can be reached at 630-457-6211.

2. Petitioners are represented by The Law Office of James E. Dickett, Ltd. Attorney James E. Dickett, located at 600 Hillgrove Avenue, Suite 1, Western Springs, Illinois, 60558 and can be reached at 708-784-3200 or jdickett@aol.com.

3. Petitioners' Taxpayer (Account) ID is XXX-XX-XXXX (redacted).

4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

NOTICE

5. On August 11, 2015, Petitioner received three Notice of Deficiency letters for Form IL-1040 ("Notices") for the tax years 2008 and 2009. The Notices, in aggregate, total more than $251,000. The Notices are attached hereto as Exhibit 1.

JURISDICTION

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act ("Tribunal Act"), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the Notice.

BACKGROUND

8. One of the Petitioners (Syed Qauyyum) is the owner of an S corporation that was a petroleum retailer (Clark) formerly located in McHenry, Illinois.

9. Defendant audited the S corporation's books and records for sales tax for the periods 2008 and 2009, and, based on that audit, the Department projected the individual income tax assessments at issue herein without providing the proper allowance for cost of goods sold for the corporation.

COUNT I

Defendant's audit methodology overstates Petitioners' liability.

10. Petitioners reallege and incorporate by reference the allegation made in paragraphs 1 through 9, inclusive, hereinabove.

11. The Department assessed the tax liabilities contained in the Notices based on the sales tax audit results without providing the proper allowance for cost of goods sold.

12. By applying the Department's corporate sales tax audit results to the business income tax Notices herein, the Department drastically and unreasonable inflated Petitioners' individual income tax liability.

WHEREFORE, Petitioners pray that the Tribunal enter an order that:

(a) enters judgment in favor of Petitioners and against the Defendants and cancels the Notices;

(b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notices;

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

COUNT II

All penalties should be abated based on reasonable cause.

13. Petitioners reallege and incorporate by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

14. In its Notices, the Department assessed late filing and late payment penalties.

15. Illinois law provides that neither late penalties nor negligence penalties 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 business care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

17. Petitioners exercised ordinary business care and prudence when they reasonably determined its business income liability during the audit periods and clearly did not use the Department's proposed sales tax audit results.

WHEREFORE, Petitioners pray that the Tribunal enter an order that:

(a) finds and declares that all penalties should be fully abated based on reasonable cause;

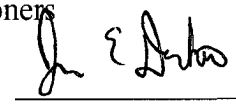
(b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount of penalties due on the Notices; and

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

Thank you for considering this Petition.

Respectfully submitted,

Syed Qauyyum and Asma Humaira,
Petitioners

By: 
One of Petitioners' Attorneys

Date: 9-8-15

James E. Dickett
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)
Email: jdickett@aol.com

Statement

Date. August 11, 2015
Name SYED QAUYYUM
Taxpayer ID: XXX-XX-3542
Letter ID: CNXXXX3993XX3688

The attached EDA-27, Explanation of Adjustments, details your audit adjustments.

Computation of deficiency	**Reporting period: 31-Dec-2008**
Adjusted gross income	$2,345,851.00
Minus subtractions	
IL income tax overpayment	-$2,453.00
Base income	$2,343,398.00
Minus exemptions	-$10,000.00
Net income	$2,333,398.00
Tax amount	$70,002.00
Total Tax (After Recapture of Investment Credits)	$70,002.00
Credits	
IL property tax credit	-$229.00
Tax Due	$68,929.00
Minus tax previously assessed	-$844.00
UPIA-5 late-payment penalty (Audit)	$27,571.60
Plus fraud penalty	$68,929.00
Plus interest on tax through August 11, 2015	$25,337.44
Total deficiency	* $190,767.04

If you intend to pay under protest, you must pay this total deficiency amount

Computation of balance due	**Reporting period: 31-Dec-2008**
Deficiency (this notice)	$190,767.04
Plus previously assessed tax	$844.00
Minus Estimated payments	-$2,800.00
Minus IL income tax withheld	-$240.00
Refunds	$2,196.00
Balance due	* $190,767.04

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return

Exhibit 1

STATE OF Illinois DEPARTMENT OF REVENUE tax.illinois.gov

August 11, 2015

#BWNKMGV
#CNXX XX39 93XX 3688#
SYED QAUYYUM and ASMA HUMAIRA
2961 LANGSTON CIR
SAINT CHARLES IL 60175-6564

Letter ID: CNXXXX3993XX3688

Taxpayer ID:	XXX-XX-3542
Audit ID:	A2112526336
Reporting period:	December 2008
Total Deficiency:	$190,767.04
Balance due:	$190,767.04

We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. **Illinois law requires that we notify you of this deficiency and your rights.**

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

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

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

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

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

Sincerely,

Constance Beard

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 558-4960

Notice of Deficiency

for Form IL-1040, Individual Income Tax Return

August 11, 2015

Letter ID: CNXXX16151611X48

#BWNKMGV
#CNXX X161 5161 1X48#
SYED QAUYYUM and ASMA HUMAIRA
2961 LANGSTON CIR
SAINT CHARLES IL 60175-6564

Taxpayer ID:	XXX-XX-3542
Audit ID:	A2112526336
Reporting period:	December 2009
Total Deficiency:	$60,707.12
Balance due:	$60,707.12

We have audited your account for the reporting period listed above. The attached statement explains the computation of your deficiency and the balance due. **Illinois law requires that we notify you of this deficiency and your rights.**

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

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

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

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

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

Sincerely,

Constance Beard

Constance Beard
Director

ILLINOIS DEPARTMENT OF REVENUE
AUDIT BUREAU
PO BOX 19012
SPRINGFIELD IL 62794-9012

(217) 558-4960

IDR-393 (R-05/14)

Explanation of Audit Adjustments

Income Tax

August 11, 2015

Letter ID: CNXXXX9847897766

#BWNKMGV
#CNXX XX98 4789 7766#
SYED QAUYYUM and ASMA HUMAIRA
2961 LANGSTON CIR
SAINT CHARLES IL 60175-6564

Taxpayer ID:	XXX-XX-3542
Account ID:	P12731961
Audit ID:	A2112526336
Reporting period:	December 2008

Explanation of adjustments for tax period ending 12/31/2008	Income change
We changed your adjusted gross income to reflect the results of an Illinois Sales Tax audit [35 ILCS 5/203(a)]	$2,297,615.00
Interest on tax has been computed as allowed by Illinois law. [35ILCS 735/3-2]	
We are imposing a penalty because you did not pay the amount required to be shown due on your return by the due date for payment. Once an audit has been initiated, the late payment penalty is assessed at 15 percent of the late payment. Failure to pay the amount due or invoke protest rights within 30 days from the "Date of Issuance" on the Form IL-870, Waiver of Restrictions, will result in this penalty increasing to 20 percent. [35 ILCS 735/3-3(b-20)(2)]	
We are imposing a fraud penalty, which is 50 percent of the deficiency attributable to the fraudulent act. [35 ILCS 735/3-6(a)]	
Because this liability qualified for amnesty, and you did not pay this liability during the amnesty period held October 1, 2010, through November 8, 2010, your applicable penalty and interest amounts were doubled. [35 ILCS 735/3-2(g) and 3-3(j)]	

EDA-27-BI (R-06/14)