

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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<b>SYED QAUYYUM and ASMA HUMAIRA</b>	)	
<b>Petitioner,</b>	)	
<b>v.</b>	)	<b>15-TT-188</b>
	)	
<b>ILLINOIS DEPARTMENT OF REVENUE,</b>	)	
<b>Respondent.</b>	)	

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**NOTICE OF FILING**

TO: James E. Dickett, Ltd.  
Attorney James E. Dickett  
600 Hillgrove Avenue, Suite 1  
Western Springs, Illinois, 60558

Email: [jdickett@aol.com](mailto:jdickett@aol.com)

The undersigned representative for the Illinois Department of Revenue (the "Respondent") certifies that, on October 13, 2015, she filed the Department's Answer with the Illinois Independent Tax Tribunal.



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Susan Budzileni  
Special Assistant Attorney General

**CERTIFICATE OF SERVICE**

The undersigned representative for the Illinois Department of Revenue certifies that, on October 13, 2015, she served the Department's Answer on the individual identified above, at the email addresses shown above.



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Susan Budzileni  
Special Assistant Attorney General

Illinois Department of Revenue  
100 West Randolph Street Level 7-900  
Chicago, IL 60601  
(312) 814-1716

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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<b>SYED QAUYyum and ASMA HUMAIRA</b>	)	
<b>Petitioner,</b>	)	
v.	)	<b>15-TT-188</b>
	)	
<b>ILLINOIS DEPARTMENT OF REVENUE,</b>	)	
<b>Respondent.</b>	)	

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**ANSWER**

**NOW COMES** Respondent, the Illinois Department of Revenue of the State of Illinois (the “Department”), through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its Answer to Syed Qauyyum and Asma Humaira’s, (“Petitioners”) Petition and respectfully pleads as follows:

1. Petitioners are individuals located at 2961 Langston Circle, Saint Charles, Illinois, 60175, and can be reached at 630-457-6221.

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

2. Petitioner is 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](mailto:jdickett@aol.com).

**ANSWER:** The information contained in Paragraph 2 is required by Rule 310(a) (1) (B) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b) (2).

3. Petitioner’s Taxpayer (Account) ID is XXX-XX-XXXX (redacted).

**ANSWER:** The information contained in Paragraph 3 is required by Rule 310(a) (1) (C) and is not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). To the extent an answer is required, Department admits that it has each of the Petitioners’ tax identification numbers in its records.

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.

**ANSWER:** Department admits that the Department is an agency of the State of Illinois and that the Department is responsible for enforcing the Illinois Income Tax Act (35 ILCS 5/101 et seq.), which is relevant to the legal claims raised in Taxpayer's Petition. The term "tax laws" is vague and therefore the Department denies all other allegations contained in Paragraph 4 and demands strict proof thereof.

### **NOTICES**

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

**ANSWER:** The Department admits that on or about August 11, 2015, it issued two (2) *not* three (3) Notices of Deficiency ("Notices") for form IL-1040 for tax years 2008 and 2009 and a copy of each Notice is attached hereto as "DOR Answer Exhibit 1." Department admits that the Notices, in the aggregate, total more than \$251,000. The Department states that the Notices speak for themselves.

### **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.

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

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.

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

### **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.

**ANSWER:** The Department admits that the S corporation is an entity known as Batul & Shayaan, Inc., and its business activities included petroleum/gas sales and retail sales through a mini-market doing business as a Clark Gas Station and admits it was located at

4713 W. Elm Street, McHenry, Illinois. Department admits that Syed Quayyum, one of the Petitioners, is the owner/shareholder of Batul & Shayaan, Inc., the S corporation.

9. Department 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.

**ANSWER:** Department admits that it audited the S corporation's books and records for the sales tax for the periods 2008 to 2009. For business income tax for years ending 12/31/2008 and 12/31/2009, the Department admits that it did not provide an allowance for cost of goods sold because neither Batul & Shayaan, Inc., nor Petitioner provided any information/documentation to the Department relating to Batul & Shayaan, Inc.'s cost of goods sold, and the Department used its best judgment and information available when it determined the business income tax assessments.

## COUNT I

### Defendant's audit methodology overstates Petitioner's liability

10. Petitioner realleges and incorporates by this reference the allegations made in paragraphs 1 through 9, inclusive, hereinabove.

**ANSWER:** Department incorporates and repeats its answers to Paragraphs 1 through 9 as if fully set forth herein.

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.

**ANSWER:** Department admits that the assessed tax liabilities contained in the Notices are based on the sales tax audit results did not allow for cost of goods sold because neither Batul & Shayaan, Inc., nor Petitioner provided any information/documentation to the Department relating to Batul & Shayaan, Inc.'s cost of goods sold, and, the Department used its best judgment and information available when it determined the business income tax assessments as contained in the Notices.

12. By applying the Department's corporate sale tax audit results to the business income tax Notices herein, the Department drastically and unreasonabl[y] inflated Petitioners' individual income tax liability.

**ANSWER:** Department denies the allegations in paragraph 12.

**WHEREFORE**, Department prays that the Illinois Independent Tax Tribunal enter an Order that:

- a. Allows the Department to assess, lien, levy, offset, or in any other way prosecute and collect the amount of the assessment plus penalties and interest as set forth on the Notices;
- b. Enters judgment in favor of the Department and against Petitioners and sustains the Notices, and;
- c. Grants such further relief to the Department as the Court deems appropriate under the circumstances.

## **COUNT II**

### **All penalties should be abated based on reasonable cause.**

13. Petitioner realleges and reincorporates the allegations in paragraphs 1 through 12, inclusive, hereinabove.

**ANSWER:** Department incorporates and repeats its answers to Paragraphs 1 through 12 as if fully set forth herein.

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

**ANSWER:** Department admits that it assessed late filing and late payment penalties. The Notices of Deficiency speak for themselves.

15. Illinois law provides that neither late penalties nor negligence penalties apply if a taxpayer shows that its failure to pay tax at the required time was due to reasonable cause. 35 ILCS 735/3-8.

**ANSWER:** Department admits the existence, force and effect of 35 ILCS 735/3-8 referred to in Paragraph 15 and states that such law speaks for itself.

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).

**ANSWER:** Department admits the existence, force and effect of 86 Ill. Admin. Code §700.400(b) referred to in Paragraph 16 and states that such law speaks for itself. Paragraph 16, contains legal conclusions, not material allegations of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Additionally, the Department states that Petitioners failed to allege any facts to support their position that they exercised ordinary business care and prudence and made a good faith effort in determining and paying their proper tax liability.

17. Petitioner exercised ordinary business care and prudence when it reasonably determined its business income liability during the audit period and clearly did not use the Department's proposed sale tax audit results.

**ANSWER:** Paragraph 17 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer pursuant to Rule 310(b)(2). Additionally, the Department states that Petitioners failed to allege any facts to support their position that they exercised ordinary business care and prudence when they determined their income tax liability during the audit period. The Department admits that Petitioners filed original returns for tax years 2008 and 2009 (2008 IL-1040 and 2009 IL-1040), but states that, based on the audit, it is not in agreement with said returns. The Department admits that Petitioners did not use the Department's proposed sale tax audit results when they computed their individual income tax liability for tax years 2008 and 2009.

**WHEREFORE,** Department prays that the Illinois Independent Tax Tribunal enter an Order that:

- a. Finds and declares that all penalties as assessed should be allowed;
- b. Allows the Department to take any action to assess, lien, levy, offset, or in any other way prosecute and collect the amount of penalties due on the Notices; and
- c. Enters judgment in favor of the Department and against the Petitioner, and;
- d. Grants any further relief to the Department this Tribunal deems just and appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN  
Attorney General  
State of Illinois



By: \_\_\_\_\_  
Special Assistant Attorney General  
Date: October 13, 2015

Susan Budzileni  
Special Assistant Attorney General  
Telephone: (312) 814-1716  
Email: [susan.budzileni@illinois.gov](mailto:susan.budzileni@illinois.gov)

Illinois Department of Revenue  
Office of Legal Services  
100 W. Randolph Street, 7-900  
Chicago, IL 60601  
Facsimile: (312) 814-4344

**Notice of Deficiency**  
**for Form IL-1040, Individual Income Tax Return**



August 11, 2015



Letter ID: CNXXXX3993XX3688

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

**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](http://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](http://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  
Director

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

(217) 558-4960

Duplicate

### **Bankruptcy Information**

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 change the fact you are required to file tax returns.

### **Taxpayer Bill of Rights**

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

# Statement

DOR Answer Exhibit 1

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

# Explanation of Audit Adjustments

## Income Tax



August 11, 2015

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



Letter ID: CNXXXX9847897766

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

We changed your adjusted gross income to reflect the results of an Illinois Sales Tax audit.  
[35 ILCS 5/203(a)]

### Income change

\$2,297,615.00

### Tax impact

\$68,929.00

Interest on tax has been computed as allowed by Illinois law.  
[35 ILCS 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)]

**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](http://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](http://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  
Director

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

(217) 558-4960

Duplicate

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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 change the fact you are required to file tax returns.

### **Taxpayer Bill of Rights**

- You have the right to call the Department of Revenue for help in resolving tax problems.
- You have the right to privacy and confidentiality under most tax laws.
- You have the right to respond, within specified time periods, to Department notices by asking questions, paying the amount due, or providing proof to refute the Department's findings.
- You have the right to appeal Department decisions, in many instances, within specified time periods, by asking for Department review, by filing a petition with the Illinois Independent Tax Tribunal, or by filing a complaint in circuit court.
- If you have overpaid your taxes, you have the right, within specified time periods, to file for a credit (or, in some cases, a refund) of that overpayment.

The full text of the Taxpayers' Bill of Rights is contained in the Illinois Compiled Statutes, 20 ILCS 2520/1 et seq.

# Statement

DOR Answer Exhibit 1

Date: August 11, 2015  
Name: SYED QAUYYUM  
Taxpayer ID: XXX-XX-3542  
Letter ID: CNXXX16151611X48

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

## Computation of deficiency

Reporting period: 31-Dec-2009

Adjusted gross income	\$1,175,787.00
Minus subtractions	
Social Security / retirement benefits	-\$202.00
IL income tax overpayment	-\$1,569.00
Base income	\$1,174,016.00
Minus exemptions	-\$10,000.00
Net income	\$1,164,016.00
Tax amount	\$34,920.00
Total Tax (After Recapture of Investment Credits)	\$34,920.00
Credits	
IL property tax credit	-\$237.00
Tax Due	\$32,835.00
Minus tax previously assessed	-\$1,848.00
Plus late-filing penalty	\$229.54
UPIA-5 late-payment penalty (Audit)	\$6,567.00
Plus fraud penalty	\$16,417.50
Plus interest on tax through August 11, 2015	\$4,658.08
Total deficiency	* \$60,707.12

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

## Computation of balance due

Reporting period: 31-Dec-2009

Deficiency (this notice)	\$60,707.12
Plus previously assessed tax	\$1,848.00
Minus IL income tax withheld	-\$825.00
Minus payments	-\$1,023.00
Balance due	* \$60,707.12

# Explanation of Audit Adjustments

## Income Tax



August 11, 2015



Letter ID: CNXXX135711X8XX7

Taxpayer ID: XXX-XX-3542  
Account ID: P12731961  
Audit ID: A2112526336  
Reporting period: December 2009

\_\_\_\_\_  
#BWNKMGV  
\_\_\_\_\_  
#CNXX X135 711X 8XX7#  
SYED QAUYYUM and ASMA HUMAIRA  
2961 LANGSTON CIR  
SAINT CHARLES IL 60175-6564

### Explanation of adjustments for tax period ending 12/31/2009

We changed your adjusted gross income to reflect the results of an Illinois Sales Tax audit.  
[35 ILCS 5/203(a)]

Income change

\$1,094,517.00

Tax impact

\$32,835.00

Interest on tax has been computed as allowed by Illinois law.  
[35 ILCS 735/3-2]

We are imposing a late-filing or nonfiling penalty because you did not file a processable return by the due date (including any extensions). This penalty is figured at the rate of 2 percent of the amount of tax required to be shown due on your return, after subtracting any payments made or credits allowed by the due date of the return. This penalty cannot exceed \$250.  
[35 ILCS 735/3-3(a-10)]

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)]