ILLINOIS INDEPENDENT
TAX TRIBUNAL

PEACOCK COLORS, INC. Petitioner,	))	
v.	))	
ILLINOIS DEPARTMENT OF REVENUE Respondent.	))	15 TT 198

PETITION

The Petitioner, Peacock Colors, Inc., hereby petitions the Illinois Independent Tax Tribunal to review and reverse and/or modify the Notice of Deficiency ("Notice") issued by the Illinois Department of Revenue ("Department"), for the reasons stated below.

INTRODUCTION

1. The Notice was issued by the Department on July 21, 2015, proposing adjustments in the amount of $22,945.00 to income tax, $2,294.50 in penalties, and $182.93 in interest for tax year ending January 31, 2015. A copy of the Notice is attached to this Petition as Exhibit A.

2. Petitioner is a corporation with its principal place of business in Addison, Illinois.

3. It is located at 1000 W. National Avenue, Addison, Illinois, and its contact telephone number is through its accountants 847-966-5255. Petitioner's Account

Identification Number is 01326-57152, and its Taxpayer Identification Number is 36-2479521.

BACKGROUND

4. Petitioner is a manufacturer of coloring for plastics.

5. Petitioner's tax year runs from January 31st to January 31st.

6. Petitioner filed its Form IL-1120 for its tax year ending January 31, 2015, in a timely manner.

7. The Department has challenged the net loss deduction ("NLD") on the return for tax year ending January 31, 2005.

8. Petitioner believes that a clerical or administrative error may have occurred in electronically preparing this return in connection with the listing of this NLD for tax year ending January 31, 2005.

9. The NLDs reported for tax years ending January 31, 2009, and January 31, 2010, are accurate as stated on the return.

10. All other information is accurate as stated on the return.

11. Petitioner believes that the resultant tax would be the same in any case, notwithstanding any issue with the 2005 reported loss.

APPLICABLE LAW

12. Pursuant to 35 ILCS 5/207, if a taxpayer's net income results in a loss, such loss shall be allowed as a carryover or carryback deduction.

13. Late payment penalties may be abated, or not asserted, based on reasonable cause. *Kroger Co. v. Department of Revenue,* 284 Ill.App.3d at 484, 220 Ill. Dec. 566, 673 N.E.2d 710 (Ill. App. 1 Dist., 1996). The existence of reasonable cause

justifying abatement of a penalty is a factual determination made on a case-by-case basis. *Id.*

ERRORS

14. The Department erred in its proposed adjustments to tax, denying and/or adjusting Petitioner's NLDs.

15. The Department erred in proposing a late payment penalty against the Petitioner for late payment of tax.

CONCLUSION AND RELIEF REQUESTED

16. Petitioner believes that its tax liability on Form IL-1120 for tax year ending January 31, 2015, was accurate as originally filed.

17. Petitioner requests that no adjustments be made on its account for the period at issue, including adjustments to tax, and the addition of any penalty or interest.

WHEREFORE, Petitioner requests that the Notice of Deficiency be canceled for the reasons contained herein.

PEACOCK COLORS, INC.

By: _____
Kathleen M. Lach
One of its Attorneys

Representative:

Kathleen M. Lach
Arnstein & Lehr LLP
120 S. Riverside Plaza
Suite 1200
Chicago, IL 60606
(312) 876-7100
kmlach@arnstein.com
Bar No.: 6243316

112682789.1

Notice of Deficiency

for Form IL-1120, Corporation Income and Replacement Tax Return

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

July 21, 2015

Letter ID: CNXXXX722197XX89

#BWNKMGV
#CNXX XX72 2197 XX89#
PEACOCK COLORS INC
1000 W NATIONAL AVE
ADDISON IL 60101-3127

Taxpayer ID:	36-2479521
Reporting period:	January 2015
Total deficiency:	$25,422.43
Balance due:	$25,422.43

We have determined that you owe amounts 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, you must 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 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 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 of Revenue

BUSINESS PROCESSING DIVISION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19014
SPRINGFIELD IL 62794-9014
217 557-9676

EXHIBIT A

LTR393-NLS (R 07/13)

PEACOCK COLORS INC

Letter ID: CNXXXX722197XX89
Taxpayer ID: 36-2479521
Reporting Period: January 2015

STATEMENT

Computation of Deficiency

Tax year ending:January 2015	**Corrected Amount**
Base income(loss) allocable to IL	$245,359.00
IL net loss deduction(NLD)	$0.00
Net Income	$245,359.00
Tax Due	$22,945.00
Plus late-filing or nonfiling penalty	$0.00
Plus late-payment penalty	$2,294.50
Plus interest on tax through 07/21/2015	$182.93
Total deficiency	*$25,422.43

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

Computation of balance due	**Reporting Period:1/31/2015**
Deficiency (this notice)	*$25,422.43
Minus additional tax withheld	$0.00
Minus estimated tax payments	$0.00
Remaining amount due or overpaid	
Current amount due (this notice)	$25,422.43

*The 'amount to be paid' is for this Notice of Deficiency and is in addition to any previous liabilities.